THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEALS FROM THE ADMINISTRATIVE LAW COURT
H.W. Funderburk, Jr., Administrative Law Judge

Case No. 16-ALJ-30-0410-CC
Appellate Case No. 2017-002455

Wayne's Automotive Center, Inc., Appellant-Respondent,
v.
South Carolina Department of Public Safety, Respondent-Appellant.

RECORD ON APPEAL

(Vol. 2 pp.501-966)

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The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

August 20, 2018

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equipment, tell me what that is.
A: That is OSHA certified communication equipment. It is mobile headsets. They are not walkie-talkies and they are not radios.
Q: But they're mobile headsets?
A: They are mobile.
Q: And how long have your company owned that equipment?
A: We purchased them in -- I don't know if it was in 2016. I don't believe it was. I believe it was in 2015. Yes, we purchased them in 2015.
Q: For how much?
A: I have no idea off the top of my head.
Q: Do you have a ballpark?
A: I think maybe five or six grand.
Q: Okay. And so, do you use them in every tow and recovery?
A: If there are three or more people involved.
Q: Okay. And how frequently then do you have those type of tows?
A: I don't have those numbers for you on the top of my head.
Q: All right. Can you give me an approximation, how many a month?
A: A month?

Q: That you have more than three employees at a particular tow job.
A: Without being in the call center, I still can't answer that.
Q: Given your experience as office manager, you can't give me a ballpark figure on that?
A: Maybe twice.
Q: Okay. And so, in essence you're charging almost one third of the actual cost for using it on one particular day for 20 hours?
A: It's just a prorated amount.
Q: Prorated from what?
A: A set amount. For using them for 21 hours. I could not use them on any other scene. If I got called to another scene, they were -- they were inoperable to use anywhere else. So they're being taken up. I mean, they're being used and utilized.
Q: What are they prorated from?
A: They're prorated at 1795 at the advisement of the people that I purchased them from.
Q: They advised you what, that you can charge $1,795 for one day's use?
A: They asked me how long they were in use.
Q: Oh, so, you called specifically for this bill?

You contacted somebody and asked them that?
A: To make sure that I was within industry standards.
Q: And who gave you that information?
A: The people I purchased them from.
Q: And give me a name.
A: Recovery Solutions maybe.
Q: Okay. And who did you speak with?
A: Ron Pullen.
Q: So, your testimony here to this Court is this Ron Fulmey told you ---
A: Pullen.
Q: What's the name?
A: Pullen.
Q: Poly.
A: Pullen, P-U-L-L-E-N.
Q: Thank you. Ron Pullen told you to charge $1,795?
A: He actually -- if I do it like he told me to do it, it would probably come out to be more than that.
Q: And how did he tell you to do it?
A: He said generally, depending on the scenario, the circumstance, and the need and demand for them, you can charge anywhere between 85 and

$135 an hour for the set.

Q: Okay. And so, basically what you've charged here is essentially one third of the actual cost of this equipment for one day's use. Do you agree with that?

MR. LARK: Objection. No foundation.

MR. LINDEMANN: I think she just laid the foundation. I just did the math.

THE COURT: I agree. I think you're asking a question based on what she said, so I'm going to overrule that objection.

Q: That's what you're telling this Court, that you can charge for one day's use slightly less than one third of the actual cost of the equipment?

A: I'm not doing the math.

Q: Because you can't or you're refusing to?

A: I'm not doing the math. I don't know the exact cost that I paid for them either.

Q: Okay. The Court can take judicial notice of that. Let me ask you this. You use that equipment you said on any job where you had more than three people?

A: Yes.

Q: Do you still have that equipment today?

A: Yes. And we've even actually added more sets

to it.

Q: All right. So, you're still using it?

A: Yes.

MR. LINDEMANN: Beg The Court's indulgence.

Q: Ms. Corbett, how many different versions of the bill were there?

A: At the time that they were steadily calling while they were still on scene, there was a dispatcher trying to jump in there and perform work in trying to get one together because Randy indicated that they possibly even wanted it towed off scene that day. And we're still there very much working at 11:35 since 3:00 a.m., rolling out at 2:15. So, she started very visibly and hurriedly trying to put a bill together at which time she broke apart. And she sent that bill over initially.

Q: And who is she?

A: Trish Felix.

Q: Okay. And Trish Felix is who?

A: She is a head dispatcher, supervisor.

Q: So, she put together the initial bill?

A: Correct.

Q: Did it have any input from you?

A: No. I was still on scene.

Q: Did it have any input from your husband?
A: No.
Q: Okay. Now, this bill that we're looking at that Exhibit Number -- Respondent's Exhibit Number 9 -- 6, Exhibit 6, was that the first version?
A: I don't see 6.
Q: It's the document that we've been looking at. I messed up the numbers. I apologize. It's right here. Number 6? Yes.
A: No, that is not the first version.
Q: Okay.
A: The first version was in three separate formats of tractor trailer and cargo.
Q: Let me hand what's been marked as Respondent's Exhibit Number 20.
MR. LINDEMANN: Your Honor, I have not moved Respondent's Exhibit Number 10 into evidence. If I could do that.
MR. LARK: No objection.
THE COURT: All right. Hold on a second. Respondent's Exhibit 10. Without objection?
MR. LARK: Without objection.
(Respondent's Exhibit Number 10 was admitted into evidence at this time.)

MR. LARK: Since you're doing -- I'm sorry. May I raise a point of inquiry briefly? There was -- I asked earlier what exhibit are you looking at and you said 8. Is that correct? Because Exhibit 8 has been admitted as just a one-page invoice.

MR. LINDEMANN: I probably misspoke. I thought we were looking at 6. If we were looking at the invoice, it's Exhibit 6. If I misspoke, I apologize.

MR. LARK: Because another of your exhibits, just FYI, is 25, which is also a version of the invoice. But you've been looking at 6? Is that ---

THE COURT: Okay. Well, hold up a second. I do have records here of Respondent's Exhibit 8, which has not been admitted.

MR. LARK: I'm showing a one-page Exhibit 8 admitted, but it's an e-mail from Bob Watson to Lieutenant King.

COURT REPORTER: Your Honor, I'm showing Number 8 as admitted as well.

MR. LINDEMANN: For the record, if it's not, then I move it into evidence.

THE COURT: Okay. Respondent's Exhibit 8, you're

right, it has been admitted. So, this reference to Respondent's Exhibit 8 is in error, should be Respondent's Exhibit 6?

MR. LINDEMANN: If he's correct, that in the record I referred to it as 8, I meant to be referring to 6. I apologize.

MR. LARK: Or 25. I'm not sure he's ---

MR. LINDEMANN: Twenty-five's not in.

MR. LARK: Okay. All right. Thank you.

Q: All right. Ms. Corbett, you've got Respondent's Exhibit Number 20 in front of you?

A: Correct.

Q: Tell me what that is.

A: That's an invoice that she hurriedly put together.

Q: And by she, you're, again, talking about Trish Felix?

A: Trish. Correct.

Q: And so, this is the initial invoice that was done?

A: Correct.

Q: And it was done in three different parts?

A: Yes.

Q: And why was it done in three different parts?

A: Sometimes we do it as a courtesy for the

insurance company because the -- they'll come back after we've done spent three or four hours on this invoice and ask that it be broke out.

Q: And this was e-mailed to Randy Swords at Premier?

A: Correct.

Q: And tell me the date it was e-mailed to him.

A: Looks to be February 11th at 6:57.

Q: 6:51 p.m.?

A: I don't know. My typo. Says 6:57 p.m.

Q: Okay. Maybe I'm reading it wrong. Bottom line is it was two days after the incident.

A: Correct. We left the scene after a 21-hour accident. You're correct. Being out there 21 hours, took a little bit of time to get it all together, even hurriedly. And people started calling at 11:35 and we hadn't even cleared the scene.

Q: Okay. But this was -- so, this was the first invoice that was sent on the evening of February 11th?

A: Correct.

Q: All right. And these invoices total up to $67,912; is that correct?

A: Correct.

Q: And what was the difference between these invoices and the one that is Respondent's Exhibit Number 6? Why did the price go up?

A: Because Bob Watson called interrogating me on the training and whatnot to the people that had on scene, as far as why I had three invoices, I was charging double for trucks. He threw out how we were inexperienced. He had a problem with the whole entire bill. He was very rude, obnoxious, hateful, mean. And he intimidated me a little bit, I would say. So, I sat down with a fine-tooth comb, like he suggested, and made a bill for 21 hours.

Q: Okay. But -- so, you're saying that he was mean and intimidated you and all those fun adjectives you just used, but the amount of the bill went up, not down.

A: Correct. And I believe I told him that in an e-mail.

Q: So, my question to you was why did it go up? You were saying it went up ---

A: Because there were a lot of things that she bulked and grouped hurriedly that I would not have bulked and grouped.

Q: Okay. If you're bulking something in groups

and then you break them out, why does that make it all of a sudden $2,000 more?

A: Because now it's no more combo meal. It's no more, okay, well, I'm just going to throw that on there. You want to make me spend three and a half more hours, almost four hours on doing another bill, I'm going to make sure that I didn't forget anything.

Q: All right. So, you're charging more because you're being required to do another bill ---

A: Absolutely not. I said I was going to study it more after three and a half hours.

Q: All right. But you agree that the bill went up?

A: I agree.

Q: Okay.

A: At this time I sent it to him without being able to sit down with Jeff -- even being able to sit down with Jeff and have him look over it like we generally do because he kept calling.

Q: So, when was the bill that's Exhibit Number 6, when was it generated?

A: In the meantime he's sending me pictures while I'm trying to work on this about his people in Massachusetts, sending me pictures, more

e-mails. So, he finally got another bill on 2/15 at 19:05 of the recovery intake form describing all the work that we'd done.

Q: All right. So, the bill is Exhibit Number 6 was prepared on February 15th?

A: Correct. He called me on 2/15.

Q: Is there a reason why that bill is dated February 10th?

A: It's just what was generated in QuickBooks.

Q: Why would QuickBooks not generate the correct date?

A: I guess because I made a mistake.

Q: Okay. I noticed that all of the subsequent invoices were all dated February 10th. Did you just make that mistake over and over again?

A: Maybe if that's when they were starting to work on it. Again, I'll reiterate that we left the scene at 11:00 o'clock -- at almost 12:00 o'clock that night on the 9th. So, yeah, if ---

Q: Do you agree with me that all of the bills after that date are all dated the 10th?

A: If I -- sure. I can take time to go back and look at all of them since there's so many of them since there were so many requested from

me. No. The ones that were initially sent were dated the 9th.

Q: Okay. My question was, after the first one dated the 10th, which is Exhibit Number 6, the rest of them ---

A: That's the second bill, though.

Q: Okay. After the second bill, all of the subsequent bills were all dated the 10th, correct?

A: Correct.

Q: Okay. Is there a reason for that?

A: My mistake. Not changing it in QuickBooks.

Q: Let me show you -- there's handwriting on these various bills. That's why I'm going to put those into evidence. Respondent's Exhibit Number 23, tell me which bill that is. Is that the second bill that was done on the 15th?

A: Yes.

Q: Okay. And that's Exhibit what?

A: Twenty-three.

MR. LINDEMANN: Your Honor, I would move in Respondent's Exhibit Number 23.

MR. LARK: No objection.

THE COURT: Mr. Lark. Without objection, admitted.

(Respondent's Exhibit Number 23 was admitted into

evidence at this time.)

Q: Let me show you Respondent's Exhibit Number 25. That looks like a different bill again, isn't it?

A: Correct.

Q: And how much is that bill for?

A: 64783.19.

Q: All right. And when was that bill done?

MR. LARK: Could you please -- which number are you currently referring to?

MR. LINDEMANN: Exhibit 25.

A: After 23.

Q: Yeah. What's the date? What date was that prepared? Do you have notes in your lap?

A: I do.

Q: I didn't realize you brought notes up to the stand. What are these notes?

A: They're all documented and submitted.

Q: What do you mean documented and submitted?

A: They were submitted with our notes to you, to The Court.

Q: Can I see what those are? I don't know what you're talking about was submitted to The Court. These are your notes that were part of the discovery, is that what you're saying?

A: Correct.
Q: Okay. Do you need to refer to those notes to be able to answer these questions?
A: I do. As many phone calls that happened from Bob Watson and the time and the date and the frame and how many people he talked to within my company, it made me have to sit down and listen to phone calls that were recorded to make sure that I had information right from him.
Q: Are those notes in your handwriting?
A: The phone calls? I definitely don't think there's audio on here.
Q: I said are those notes in your handwriting?
A: Yes.
Q: That's what you prepared?
A: Yes.
Q: That you prepared contemporaneously with those dates or did you make them some time later?
A: No, I was pretty much taking notes already because he was harassing me.
Q: Okay. So, going back to my question, then. Exhibit Number 25.
MR. LARK: Excuse me. Sorry to interrupt you. But you have -- speaking of notes, you had already

at least identified as Respondent's 26, you haven't moved it, but there are notes, but they start on page two. And I'd ask whenever you get to that, that you include beta (sic) stamp page 132 rather than starting at the second page after the 9th. Her notes start on the 9th and yours -- the way you've got it, you left off the top page, is what I suggest.

MR. LINDEMANN: You can take that up when I get to that exhibit, I guess, or you can put in the page I left out.

Q: But let me go back to my question. Exhibit Number 25, can you tell me the date that that was prepared?

A: This one was prepared, I'm assuming, on the 16th because this is when Bob Watson called to speak with Jeff regarding the bill. And that is when Jeff finally had a chance to sit down with me and look at it and say, hey, I don't think that truck was on scene that long. I think you need to pull a report and make sure that we haven't overcharged for that truck.

Q: So, the difference of $5,000 is one truck being on scene less time or is there anything else?

A: It looks to be about four to $5,000, yes.

Q: So, it's just that one overcharge?
A: Is what I believe, looking at it quickly.
Q: All right. Let me ---
A: It is also more detailed as far as what was performed, as to where Exhibit 23 is only just basic lined items.
Q: Does it break out what work, what equipment, and what labor was provided by third-party contractors?
A: It does indicate that labor sublet from Vern's Towing, three guys used for transferring or re-packing cargo and reloading onto trailer.
Q: Other that Vern's, does it break out anything that was owned or contracted with your company, SCIM?
A: No, it does not.
Q: Did you all ever do that in response to the request from Lieutenant King?
A: No, because Jeff can respond to you as why we did not.
Q: Well, what is your understanding of why you did not?
A: I went back and reread the Regulations and it says submit one.
Q: And that's the basis of it?

A: That is.
Q: Did you ever go back to Lieutenant King and ask him about that, what exactly he needed?
A: No, he never called back.
Q: And you can't contact Lieutenant King?
A: I did not call him. He did call me.
Q: You could have reached him if you wanted to, correct?
A: Correct, but he was dealing with Jeff.
Q: He was dealing with Jeff. Do you know if Jeff ever called him back?
A: I believe that the next contact with the company that was made after Lieutenant King was with the attorney.
Q: Okay. I'm talking about Highway Patrol, not the attorney for Premier.
A: And then it proceeded from the attorney directly that night to finally the owner of the company.
Q: All right. I'm asking you about Lieutenant King, not ---
A: And the question?
Q: Did -- to your knowledge, did Jeff ever respond back to them?
A: I can't answer that.

Q: All right. Let me show you Respondent's Exhibit Number 24. It says final at the top. Tell me what that is.

A: This is the final bill after Jeff and Tim spoke and they had a chance to discuss the labor rates, discuss some of the issues that maybe they had. Because up until this point we had spoke with no one to even know what the issues were from the company after I was getting all kinds of e-mails asking again still for the bills to be portioned out for cargo, for Travelers. I mean, this is a timeframe that's going on after three weeks.

Q: Tell me when that bill was done.

A: This bill was done the -- I stayed over and stayed late to do it. It was done on -- if I'm not mistaken, 2/26 when they spoke that night on the phone.

Q: And who is they?

A: Jeff and Tim Pilato, the owner of Premier.

Q: Okay. And that bill is for how much?

A: $48,633.19.

Q: Ms. Corbett, when was the cargo released?

A: The cargo was picked up on 3/7. They agreed on 3/4, after Jeff continuing to text Mr. Pilato

back after the 26th because he went out of town on vacation and said that he would need to get back with us when he got back. And they finally come and got it 3/7.

Q: When did your company release it to them?

A: We told them on 3/4. He agreed on 3/4. Actually -- it was actually worked on on that weekend and loaded and re-transferred to another trailer for them.

Q: Did you receive a request from Premier to release the cargo earlier than that?

A: No. The only indication, and that's after me going back to listen to phone calls, on 2/11 Vivian, Supervisor with Premier, wanted to know where the load was. She stated to Trish that even the vice president didn't know that they even had an accident and that she needed one of the bills sent to her.

Q: My question is, did anyone with Premier, representing Premier, make a request earlier than that for the release of the cargo?

A: Not to my knowledge, no.

Q: Not to your knowledge?

A: Correct.

Q: Did Bob Watson make a request for the release

of the cargo on behalf of Premier?
A: Correct, he did.
Q: He did. And you understood that he was representing Premier, correct?
A: He said that, yes.
Q: Okay.
A: I had no confirmation of that until the 19th, ten days after.
Q: All right. And how did you get that confirmation on the 19th?
A: When I finally asked Lieutenant King and I faxed over the information and said, now I'm being called by another insurance adjuster asking for the cargo portion of the bill to be broken out after you tell me not to do it, so what am I to do?
Q: And you still didn't release the cargo, even after you knew ---
A: He didn't ask for the cargo. He asked for the cargo portion of the bill.
Q: No, no. I'm saying releasing the cargo to the owner's of the cargo, so that dog food could be delivered.
A: I never talked to the owners. I never talked to Tractor Supply. I never talked to anybody

from Premier. No one actually talked to anybody from Premier until 2/26.

Q: You just admitted that you talked to Mr. Watson and you learned on the 19th that he was representing the interest of ---

A: But he wasn't the owner of the cargo. He didn't own it.

Q: So, that's your position?

A: That is my position. He did not own it.

Q: All right. Ms. Corbett, you, on numerous times in e-mails, indicated that you would not -- and by you I mean Wayne's, would not release the cargo until payment was received, correct?

A: Correct. That's what I instructed Bob Watson.

Q: All right. And you said that repeatedly in your e-mails. We don't have to go through those, do we?

A: Correct.

Q: They're in evidence. And you knew South Carolina law required the cargo to be released?

A: I did not.

MR. LARK: Objection.

Q: You did not? All right. So, you're not familiar with the statutes that govern the towing business?

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A: I knew that if it was personal property such as what it states in the Regulations, like a cell phone, medication, tools of the trade, to that knowledgement in a small vehicular accident, yes, I'm aware of that. Cargo I have no knowledge of.

Q: How long have you been in the towing business?

A: Thirteen years.

MR. LINDEMANN: Beg The Court's indulgence. I believe I need to move in Respondent's Exhibit 24. I haven't done that.

MR. LARK: No objection.

MR. LINDEMANN: That was the final version of the bill.

THE COURT: Did you get 25 in?

MR. LINDEMANN: If I haven't, I want to move that in too. Thank you.

THE COURT: Let's start with Respondent's Exhibit 25.

MR. LARK: Twenty-five, no objection.

THE COURT: Without objection, admitted.

(Respondent's Exhibit Number 25 was admitted into evidence at this time).

THE COURT: Respondent's Exhibit 24.

MR. LARK: No objection.

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THE COURT: Without objection, admitted.

(Respondent's Exhibit Number 24 was admitted into evidence at this time.)

Q: Ms. Corbett, the first time Wayne's heard from Bob Watson was on February 15th, 2016, correct?

A: I'm sorry?

Q: The first time Wayne's heard from Bob Watson on this particular matter was on February 15th, 2016?

A: Correct.

Q: Let me show you what's been marked as Respondent's Exhibit Number 21. Is an e-mail from Trish Felix regarding Mr. Watson calling?

A: Correct.

Q: And does that e-mail reflect that Mr. Watson asking for the cargo to be released at that time?

A: Correct. She did indicate that in the e-mail.

Q: Okay. And he indicated -- that e-mail indicates that he was calling on behalf of Sentry Insurance Company, correct?

A: Correct.

MR. LINDEMANN: Your Honor, I'd like to move that into evidence as Exhibit Number 21, Respondent's Exhibit 21.

MR. LARK: No objection.

THE COURT: Respondent's Exhibit 21 without objection, admitted.

(Respondent's Exhibit Number 21 was admitted into evidence at this time.)

Q: The time of Ms. Felix's e-mail that we just looked at was what time?

A: 11:56.

Q: All right. Let me show you what I've marked as Respondent's Exhibit Number 22. And tell me what that is.

A: What was the question again?

Q: Is that an e-mail?

A: It's obvious it's an e-mail.

Q: Okay. That's all I needed you to say. What is the date and time of that e-mail?

A: There's two different times. One's at 1:50 and one's at 1:46.

Q: Let me ask you about the top one.

A: Okay. It's at 1:50.

Q: All right. And it's from whom to whom?

A: That is from Trish to Sherry.

Q: Okay. So, Sherry being you?

A: Correct.

Q: All right. Is that about Mr. Watson calling?

A: Correct.
Q: And does it also mention he is asking for the cargo to be released?
A: Correct.
Q: All right. So, there were numerous requests by Mr. Watson for the cargo to be released, you would agree with that, correct?
A: Correct.
Q: And you would agree with me that Lieutenant King made a request for the cargo to be released, correct?
A: I heard about it from Jeff, yes.
Q: Okay. And you all still refused after Lieutenant King asked for the cargo to be released, you refused to do so, correct?
A: I don't think we refused after 2/26. They come to an agreement.
Q: It didn't get released until March 4th, right?
A: Correct. They talked on 2/26.
Q: And you didn't release it until you received a check, correct?
A: I did not transfer it for them. We actually performed more services for them.
Q: You did not release the dog food until you received payment of 48,000 some odd dollars,

correct?

A: I did not release the dog food until we completed the work they requested from us, correct. He could have had the check to us sooner. He went on vacation.

Q: My question is, you would not release the dog food until you received payment?

A: Correct.

MR. LINDEMANN: Your Honor, I need to move in Exhibit Number 22. And I'm very close to being through.

MR. LARK: No objection, Your Honor.

THE COURT: Without objection, Respondent's Exhibit 22 is admitted.

(Respondent's Exhibit Number 22 was admitted into evidence at this time.)

Q: All right. I think we already talked about Exhibit 26. It appears to be your handwritten notes; is that correct?

A: It is.

Q: That's what you've had in your lap that you've been relying on to testify?

A: It is.

MR. LINDEMANN: Your Honor, I'd like to move those into evidence as well.

MR. LARK: Your Honor, as I indicated earlier, there's a page missing, the top page of this: And I'd ask that counsel add that to it. I mean, if I have to do it, I'll pull it out of my notebook, but he's got it in his -- he's got that same page in his notebook and he should provide all of her notes if he's going to do part of them.

MR. LINDEMANN: Your Honor, I don't have a problem with doing that. I mean, I can certainly amend that exhibit tomorrow or I can try to do it here in a few moments. Obviously the days I was concerned about was after Mr. Watson got involved.

THE COURT: Correct me now. That's Exhibit 26?

MR. LINDEMANN: That's correct, Your Honor.

THE COURT: And that would be admitted with amendment without objection provided the amendment of that page?

MR. LARK: Yes. Please provide page 132 at your earliest convenience, tomorrow if not today.

THE COURT: So, add first page. And then without further objection, admitted.

(Respondent's Exhibit Number 26 was admitted into evidence at this time.)

Q: Your notes on February 15th reflect a telephone conversation you had with Bob Watson; is that correct?
A: Yes. Some notes on the 15th, yes.
Q: All right. And that's from a telephone conversation you personally had with Mr. Watson?
A: Yes.
Q: And your notes reflected and made a request for the release of the cargo; is that correct?
A: Correct. And he's still questioning the bill, yes.
Q: Ms. Corbett, you knew the whole time you were holding the cargo that it was dog food, correct?
A: I wasn't quite sure what was on it until I believe it was the 15th when I had to go ask Jeff.
Q: So, by the 15th you knew it was dog food?
A: Correct.
Q: And you knew it was perishable?
A: I don't know it's expiration, but I imagine it should be perishable.
Q: You know there was an expiration on it, correct?

A: Actually I did not know that there was an expiration on dog food, but now I do.

Q: But you referenced it actually in an e-mail we looked at earlier ---

A: Correct. After I was made aware of it.

Q: Okay. So, you knew there was an expiration date for that particular dog food.

A: Correct.

MR. LINDEMANN: All right. With The Court's indulgence, let me make sure there's not something I've overlooked, any exhibits I haven't -- Your Honor, can we take one minute?

THE COURT: Sure. We'll be at ease for -- well, we'll give you two minutes.

MR. LINDEMANN: Thank you.

(Off the Record)

MR. LINDEMANN: Ready, Your Honor?

THE COURT: Yes.

MR. LINDEMANN: Got just a few more.

Q: Ms. Corbett, when we were talking about the labor costs, individuals that you were charging for $50 an hour for simply transferring the dog food, moving the dog food around, how much were those individuals being paid? What were their wages?

A: Without my knowledge, pulling payroll, I can't answer that. But it wasn't simply reloading dog food.
Q: I'm telling ---
A: We're talking 3:00 a.m.
Q: So, it was moving dog food ---
A: On the side of the interstate ---
Q: --- at 3:00 a.m.
A: Correct. On the side of the interstate.
Q: Okay. My question to you though is ---
A: I do not know the payroll ---

(Multiple voices at once)

A: --- amounts by those individuals by heart without having to pull it.
Q: Can you give me a range?
A: No, I cannot.
Q: Is it anything close to $50 an hour?
A: We have 29 employees.
Q: Right. Is anything close to $50 an hour?
A: I have no idea.
Q: You have no idea. Okay. How about these technicians. I take it JC is your husband?
A: I -- you would be correct on that.
Q: All right. How about BH, what does BH make as far as ---

A: He's no longer employed with us and I don't know. I don't know any of these individuals' payroll amounts, hourly amounts.
Q: You can't even ballpark it for me?
A: No, I can't.
Q: Okay. We had also talked about this response unit, the -- basically the supply truck. Is that something that goes to every call?
A: No. Only when it's a recovery issue; when something's overturned, laying on it's side. When it's in need of the supplies that are in it.
Q: Okay. And you have only one of those?
A: We have a couple of those, but that would be the one that carries the most.
Q: So -- and how about the radios themselves, do you have enough to do more than one job at one time or only enough to do one job?
A: I don't have any radios. I have mobile communication. But, yes, there is enough to do one job.
Q: All right. So, what happens if you have simultaneous recovery calls?
A: We have now added to it.
Q: Okay. How about back in early 2016, what would

you do ---

A: We haven't had that happen yet, so I can't answer that question.

Q: You've never had simultaneous calls?

A: Never.

Q: So, when you're telling me you charge $175 an hour for the supply truck to be on the scene of a recovery, you justify that by saying that you didn't have it for any other jobs, but there wouldn't have been any other jobs you needed to go to ---

A: No, you said that about mobile communication. You didn't say that about the supplies.

Q: Okay. How about the supply truck?

A: The supply truck ---

Q: Have you ever had simultaneous jobs that required the supply truck on site?

A: If we needed a different one, a different one would go. It might not have as much supplies on it.

Q: Did you ever have jobs that required, in 2016, simultaneous jobs that required the supply truck?

A: Yes, but I cannot state them for you, but I can do some digging if you'd like me to.

Q: So, you had simultaneous jobs that required the supply truck, but you'd never had simultaneous jobs that required the mobile communications?

A: Correct.

Q: I thought anybody -- any job that required three or more people required mobile communications?

A: You have a difference in cleanups and you have a difference in recoveries. So, I can have supply trucks that go out with oil dry, with shovels, with a broom that totes different kinds of supplies and I can have that other truck that's on scene with the recovery that's toting snatch blocks, I mean, like it said, blowers, straps, chains, extra equipment that may be needed for a recovery.

Q: On February 9th, 2016, did you have any simultaneous recovery or cleaning of jobs?

A: I don't know if we turned any down.

Q: You don't know?

A: Without looking at the dispatch logs.

Q: But you certainly didn't have any that you reported to?

A: That we reported to?

Q: Yeah. You didn't have any simultaneous

recoveries or cleanups that you actually took care of and performed?

A: I'd have to go back and look at the logs.

Q: You don't know?

A: No, I do not.

Q: That's all the questions I have. Thank you.

THE COURT: Mr. Lark?

MR. LINDEMANN: I'm sorry. Exhibit 20, I don't know if 20 has been moved into evidence, Your Honor, I apologize.

MR. LARK: It has not.

THE COURT: I don't see it, nor do I remember you mentioning it.

COURT REPORTER: No, I don't remember you mentioning that. I mean, I -- obviously she has it.

THE WITNESS: It's in this stack if you'd like it.

MR. LINDEMANN: Oh, it is, okay. Thank you. Yeah, Your Honor, it's the initial three bills that were broken out that totaled $67,912. We would move to admit that into evidence. That's Respondent's Exhibit 20.

THE COURT: Respondent's Exhibit 20, okay.

MR. LARK: Is that your request to ...

THE COURT: Okay. Respondent's Exhibit 20 admitted without objection.

MR. LARK: Thank you, Your Honor.

(Respondent's Exhibit Number 20 was admitted into evidence at this time.)

MR. LARK: Your Honor, we're not waiving our rights to, of course, call her on Direct and I don't want her to have to be under -- not be available to speak with me over night, so -- because she's already under oath and if you were to stop the hearing. And so I am considering that. But subject to that comment, and I'm willing to go on whatever you want to do, it's 10 after -- I've got 10 after 5:00 and just wondered if we're going to break for the day or go forward?

THE COURT: Well, I was thinking about breaking after you finish with Ms. Corbett, but ---

MR. LARK: I have no questions if that's -- if -- because I believe I'm correct from experience at least, that unless counsel doesn't care, I'm not sure it's going to matter, I think I'd want to gather my thoughts anyway, but that I could not talk with her if she's under oath and you break for the night, so.

MR. LINDEMANN: That's a pretty standard rule, Your Honor, when a witness is on the stand, she

can't consult with counsel.

THE COURT: Right.

MR. LARK: And so, not to be expressing a position of agreement with Mr. Lindemann, goodness gracious, I have no questions and she can come down from the stand.

THE COURT: Okay. But now, you're saying that would be subject to your ---

MR. LARK: Ability to call her in my Direct as a witness for -- in my -- our case, which is what, I mean, I thought was going to happen to begin with.

THE COURT: Right.

MR. LINDEMANN: Your Honor, I don't have a problem if he recalls her as a witness in his case.

THE COURT: So, in that case, this would be ---

MR. LINDEMANN: A good time.

THE COURT: --- a good time to take a break. Now, before we do that, are you okay with that still?

MR. LINDEMANN: Yes, I am.

THE COURT: Okay. All right, now, here is what I have -- I've got another hearing on my plate in the morning. We should start about 10:00 o'clock for that. I suspect, and I could be

wrong, but I suspect that we'll be done with that hearing by noon, maybe even earlier than that, but let's be a little bit pessimistic and say by noon. So, we would be back here at your pleasure after that. I know we've got a couple of witnesses that were unable to be here today. Is that going to be a -- do you think we could start around 1:00, 1:30?

MR. LINDEMANN: We certainly can. Just to get The Court's assistance with this the best way I can do it, I have a hearing in Lexington County, a motion hearing, at 11:00 o'clock. And you know how motion hearings are. I think -- especially at Lexington County, they schedule a lot at 11:00. My preference would be to be able to advise Judge McMahon that I'm in the middle of a trial and we're going to be reconvening to get that continued. But I don't want to do that without Your Honor knowing that, because that way that frees me up to be here so we can get started right away as opposed to me still being tied up there at 12:30 or something ---

THE COURT: Right.

MR. LINDEMANN: --- and you all waiting on me. Is that ...

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THE COURT: Well ---

MR. LINDEMANN: I don't think it will -- it's a huge problem because this case is ongoing, but I ask for your assistance. I haven't really ever looked at the priorities between motions and ALC trials.

THE COURT: Well, usually if we -- usually if one is in process, you get a break, but otherwise we're at the bottom -- well, near the bottom of that particular totem pole. But ---

MR. LINDEMANN: I mean, that's my inclination to do it, but I don't want to look like I'm trying to take advantage of anything either.

THE COURT: Right.

MR. LINDEMANN: But at the same time, I don't want you to be ready to go and I'm calling in saying I'm still over here trying to argue a summary judgment motion. The case isn't up for trial any time soon. It's not like it's -- it's been continued once before by the other side, so it won't be that big a deal.

THE COURT: Okay.

MR. LINDEMANN: It's that fine with you?

THE COURT: That's fine with me.

MR. LINDEMANN: I can't imagine Judge McMahon would

check on me, but at the same time ---

THE COURT: Well, if he does, we'll tell him.

MR. LINDEMANN: If somebody did, I wouldn't want it to be a surprise.

THE COURT: Right. Well, so ---

MR. LINDEMANN: We can be here -- with that consideration, we can be here whenever you're ready to go, Your Honor.

THE COURT: Mr. Lark, what do you -- what's your ...

MR. LARK: If his motion hearing -- if your motion hearing's at 11:00, I'm with you on the scheduling of multiple matters. You know, you might be able to use this explanation to ask to be moved up. But, I mean, the 1:00 or -- it sounds like it's safer would be to go to 1:30 instead of 1:00 with your 11:00 o'clock ---

MR. LINDEMANN: I'm just saying I'm going to ask for that to be continued so that I'm available for this.

MR. LARK: Okay.

MR. LINDEMANN: And it shouldn't be a problem. If it is, I'll advise The Court.

MR. LARK: It's normally a week ahead of time, as you know.

THE COURT: Yeah.

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MR. LARK: So, whatever. And I guess what I would ask, since we're talking about scheduling is whether you could make a -- or have you made an inquiry with the Colonel Oliver this afternoon or today, since this morning's news about his mother. I didn't know if ---

MR. LINDEMANN: My understanding is he thinks he can be here tomorrow afternoon, but we'll follow up with him. Is there a particular time?

MR. LARK: Not from my standpoint. When you conclude your case ---

MR. LINDEMANN: In fact, we rest at this point, Your Honor. We can go on the record and rest. This is as to Petitioner -- or the, I'm doing this backwards, the Respondent's case.

MR. LARK: You're not calling the Brad Hughes, Captain back here or Captain Grice, is that what you're saying, right?

MR. LINDEMANN: That's what I'm saying, we're resting at this point.

MR. LARK: Okay. Well, we'd reserve the right to call both of those witnesses as well. We haven't subpoenaed them. I hoped that we wouldn't have to. We didn't go through a subpoena process with Sherry, of course,

because she's a party and also was here. But will you make them available if we wanted to --

-

MR. LINDEMANN: Well, that might be a bit of a problem with Captain Grice because I let him go because he was in the middle of vacation and I didn't realize that and I let him go earlier. He was not under any type of subpoena, so.

MR. LARK: He was listed in your witnesses in your prehearing statement.

MR. LINDEMANN: He was in case I needed to call him, but I made a determination that I didn't need to call him.

THE COURT: Well, okay. Let's get back to the essential skinny for tomorrow. So, 1:00 o'clock, 1:30?

MR. LINDEMANN: That's fine with me, 1:00 o'clock?

THE COURT: 1:00 o'clock?

MR. LARK: Sure, yes. And that assumes we would've had lunch, so we don't need to break for lunch.

THE COURT: Right.

MR. LINDEMANN: Right.

THE COURT: So, you'll get Judge McMahon to give you a lunch period. Okay?

MR. LINDEMANN: All right. Thank you, Your Honor.

THE COURT: We'll see you -- we'll be adjourned until tomorrow at 1:00 o'clock.

(Off the Record)

THE COURT: All right. We're back on the record in case number 16-ALJ-30-0410. An issue came up as we were leaving the courtroom that needs to be addressed. And it is, as I understand it, the question of Colonel Oliver's participation in this hearing, what he would be needed for.

MR. LARK: Your Honor ---

THE COURT: I'm going to hear from you, Mr. Lark.

MR. LARK: Thank you. Before we went off the record I believe Mr. Lindemann suggested Colonel Oliver could appear tomorrow afternoon, which is when the hearing will resume. And so, we don't want to waive rights under the subpoena that we served and he's agreed to honor. I have, on the other hand, you know, agree about having mothers and not, you know, want to stress things more than they might be. My suggestion would be, if the Department will stipulate that there is no advisory committee that he could have referred to and that the excerpts of the Patrol Manual, for whatever relevance or utility they may have, would be

admitted, then I don't need to call him. Otherwise we do.

MR. LINDEMANN: And here's my concern. I mean, obviously if I stipulate to that, I'm agreeing it's relevant probative evidence.

THE COURT: Which is to say the Patrol Manual?

MR. LINDEMANN: The Patrol Manual as well as the whole idea of a an advisory committee. And Your Honor understands my position, we stated it earlier as well, based on the Unisys case, any type of alleged procedural irregularities that were during the hearing or the appeal held actually within the Department becomes a moot point because this is going forward as a contested case. So, Wayne's is getting their full due process rights through this proceeding. It's exactly what the Unisys case says. So therefore, whether or not the Department handled it from a procedural standpoint appropriately, the hearing and the appeal to Colonel Oliver are recognized. He was not involved in the hearing itself, he was involved solely in the appeal, that that is a moot point. And so to the extent, you know, he wants to argue advisory committees, the absence

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of an advisory committee, that has no bearing whatsoever on this case because he's getting -- they're getting their due process through this Court and Your Honor's rulings. To perhaps make this work is Your Honor can take under advisement that evidentiary issue without me waiving my rights to say it's not relevant. If you rule against me, against the Department, and find that it is relevant, we will conditional stipulate that there was no advisory committee and he did not consult with an advisory committee. Does that make sense?

THE COURT: Well, it does subject to one thing. What is the purpose of the manual, of admitting the manual?

MR. LINDEMANN: I don't understand that, I mean.

MR. LARK: Well, the manual, when a trooper swears, and this excerpts will show that, when they become Troopers, their oaths they take, under oath, and part of what they take under oath is that they will obey all rules, regulations, and policies of the Department. And it flows from there. In my -- the three depositions that I took, Your Honor, I would represent to you that I couldn't get any of the three witnesses to

acknowledge there was no advisory committee, which I frankly found troubling. And so, this is the Colonel whose ultimate responsibility -- and the violation, by the way, of the manual, provision in the manual, is a disciplinary one. Well, Colonel Oliver doesn't have a pressure now if he did, which I don't know that he did, because he's retired. So, there's no potential disciplinary action. But it's he that is the commander who was ultimately the -- probably the most -- needs to be the most responsible to the operations manual, which are -- which is binding on everybody that's an officer and a trooper. And so, this about moot and that sort of thing, it's just the opposite in terms of the Petitioner, not having the burden of proof, being able to put it's case together and have -- I mean, if they'll stipulate to the provisions, that they're applicable, I mean that they admitted, then we could make the argument before you in a brief or whatever later about the effect and so forth. But it's Colonel Oliver who needs to be the person to say -- because he has the mandatory requirements to confer. If he's not -- if he's

going to sign off or not -- to reverse the matter, if he has anything to say, he has to consult the advisory committee first. So, if I had gotten the admission under oath by any of the witnesses that I'd previously deposed, I'd be saying, you know, they acknowledge there is no advisory committee. They equivocated. And so, the way to deal with it, I ---

THE COURT: Well, I think Mr. Lindemann agrees with you that there's no advisory committee.

MR. LINDEMANN: That's correct. Those witnesses probably were not aware of it, but they couldn't say ---

THE COURT: So, the question that I -- that's before this Court is whether a violation occurred. And if it did, what's the appropriate penalty. Now, how is the presence of the manual or Colonel Oliver going to help us get across that factual bridge?

MR. LARK: Now, if we get -- if he previous -- while we were off the record and now we've come on, he said there's -- I take it as either admission against interest or a stipulation that there is no advisory committee, DPS has no advisory committee. If that's his position,

then I would still -- that's good, but I would still then like to have the operations manual admitted into evidence since his -- he's resting his case. And we already proposed it, so that Your Honor will have the advantage of that for us to argue what the relevance is. But, I mean, that's ...

THE COURT: Do you have any objection to the operations manual? What is it?

MR. LARK: Excerpts of the ---

MR. LINDEMANN: Excerpts of the operations manual. I wanted to look at exactly what he wanted to put in, but they say what they say. My only objection, as I indicated, I think this was off the record, is to their relevance, not to their authenticity. So, I don't need -- he does not need to bring any witness, Colonel Oliver, to authenticate that that is the manual. If Your Honor rules that it's relevant, it can come in without any type of authenticity or authentication.

THE COURT: It's after 5:00 o'clock.

MR. LINDEMANN: You caught my gist.

THE COURT: Yeah.

MR. LINDEMANN: But you see what I'm saying? I'm

trying to ---

THE COURT: And that's what I'm trying to understand. What probative value to the issue before us does that manual have, with or without Colonel Oliver?

MR. LINDEMANN: Yeah, we contend it has none because it all goes to what they're alleging, are procedural irregularities that were done during the hearing and/or appeal before the Department.

THE COURT: And by ---

MR. LINDEMANN: And those issues are ---

THE COURT: By bringing this case here as a contested case, we essentially say, right or wrong, that's not part of this case?

MR. LINDEMANN: Because, again, the de novo hearing from this Court, Your Honor will make the finding of fact and conclusions of the law regardless and based on what was found at -- in the Department proceeding.

MR. LARK: Right. And it's all the more ways, the de novo proceeding, for the Petitioner to have the right to present it's case and the operations manual is definitely relevant and he's not going to challenge authenticity. So,

I wanted to show that these requirements that relate to how they handled or mishandled this case below have probative value. It's certainly ---

THE COURT: Okay. Well, I'm convinced that how they handled the case matters, but I'm not convinced that how they didn't handle it matters.

MR. LARK: Well, if he treats this ---

THE COURT: So, what ---

MR. LARK: If we agree ---

THE COURT: What we --- go ahead, sir.

MR. LARK: Could we agree that what Andrew has just said is a concession, or however you want to characterize it, there is no advisory committee? That the Colonel could have ---

MR. LINDEMANN: I've conceded that point, but I'm not stipulating to it because I don't believe it's relevant or admissible. So, that's ---

THE COURT: Well, that's the problem. I mean, I think we all think that there's no advisory committee.

MR. LINDEMANN: Right.

THE COURT: What we're not sure about is whether that matters for this case.

MR. LINDEMANN: That's where we disagree.

MR. LARK: The portions of the manual relate to that. And if -- they should be admitted and for The Court's ultimate decision in its order to determine, to the extent to which there is relevance, to the handling and the disposition of the matter before Your Honor. In other words, if I -- if you violated a regulation that has the force and effect of law, that ought to be dealt with by, and would be, by The Court. You have a policy -- an operations manual that says that every trooper must obey rules, regulations, and policies of the Department, which one way of looking at it is extending the efficacy of policy.

THE COURT: Is that manual going to tell me what the policy is that we haven't -- that's not ---

MR. LARK: All policies.

THE COURT: But -- no, no. No, no. What we have is statutes, regulations, policies which do not have the force of law.

MR. LARK: That's a question we still wouldn't concede because of the specific portion of this regulation. This regulation says, with respect to disciplinary policy, that there shall be a policy adopted consistent with this regulation.

Now, that may be a fine tooth comb or a fine line to tread, and I understand what the rule of the courts have generally stated, but I'm just going ...

THE COURT: I don't think we need Colonel Oliver to have this argument. And I think if we determine, if I determine, if The Court determines -- let's be somewhat official here. If The Court determines that that operations policy manual is relevant, you're not going to object to its coming in because there's nobody here to authenticate it?

MR. LINDEMANN: That's correct.

THE COURT: So, if I say it's relevant, it comes in?

MR. LINDEMANN: Correct.

THE COURT: If I -- if we can't, in some time tomorrow, reach an argument that convinces me that I should look at it or I shouldn't look at it and what do I do with it when I do look at it, if I do. That's going to have to be -- that'll be an argument for another day, i.e. tomorrow. But I don't think Colonel Oliver being here or not is going to effect how we look at that question.

MR. LARK: It is he, nobody else, who is -- before

he renders his decision, must refer it to the advisory committee. So, if you're going to -- I mean, I'm not faulting you for your logic or rationale, but if there is no -- since there's concession that there is no advisory committee, there's no way he could've complied with that. And then if that is -- if you decide it's not relevant or material ---

THE COURT: Well, if in fact there is no advisory committee and he's required to refer to one, then the worst case scenario is that his decision is void. But the decision which brings us here is still out there.

MR. LINDEMANN: That's exactly correct. That's our point.

THE COURT: So, we're still here on the allegation of a violation of the reg and what penalty should be applied to that, if it exists.

MR. LINDEMANN: That's correct.

MR. LARK: He's already -- I didn't mean to interrupt.

MR. LINDEMANN: No, that's exactly correct.

MR. LARK: Well, if he's -- he's already acknowledged there is no committee and he's also acknowledged that it's not authenticity he

is challenging, it's relevance, and just from a fundamental standpoint, the fact that it's all inclusive of -- and I -- some with Lieutenant King to some extent, it's applicable, these requirements, making the troopers violating them subject to disciplinary action, that certainly makes it relevant for the purpose of other related considerations about, for example, what did the Colonel look at or not look at before he decided to deny the request for reconsideration. And the fact that it's a different person, and, you know, my background is typically Circuit Court, the same Circuit Court Judge must hear the reconsideration. And this is a different person, a different level of authority.

THE COURT: That's the key. It's a different level of authority, so it can't and shouldn't be the same person. Not as in Circuit Court. So, if you've got a problem with the Circuit Court Judge's order, you've got to go back before that Judge to find out what he meant. I'm still waiting for one of those, by the way, 20 years later.

MR. LARK: Well, I mean, it -- I don't know if it

would help to decide -- announce the decision tomorrow, but he's -- the difference between when we started this conversation and now, off the record and now on, to me is that he's acknowledged there is no committee. And so, he couldn't -- the Colonel could not have performed that task. And so, what does that mean?

THE COURT: Now ---

MR. LARK: Well, that's up for ---

THE COURT: Well, that's -- and that's another issue. Let's say that we all agree that there's no advisory committee. Now, what does that mean? That's still something we could talk about. But I don't think we could -- that we necessarily have to have Colonel Oliver here to talk about it. The relevance issue is what we have to talk about. And we can do that after you've had a night to prepare your arguments.

MR. LARK: Okay.

MR. LINDEMANN: That's fine, Your Honor.

THE COURT: All right.

MR. LINDEMANN: Thank you, Your Honor.

THE COURT: We're back off the record. We'll

adjourn until tomorrow morning -- tomorrow afternoon at 1:00 o'clock.

(The hearing adjourned at 5:33 p.m. on Monday, July 31st, 2017)

(The hearing reconvened at 1:01 p.m. on Tuesday, August 1st, 2017.)

CALL TO ORDER:

THE COURT: Back on the record in case number 16-ALJ-30-0410. Everybody back and ready to go at it? Rearing to go this afternoon?

MR. LINDEMANN: Yes, Your Honor.

MR. LARK: Yes, sir.

THE COURT: All right.

MR. LARK: Your Honor, may I?

THE COURT: Yes.

PRELIMINARY MATTERS:

MR. LARK: We have a couple of housekeeping matters from yesterday.

THE COURT: Okay.

MR. LARK: We've taken care of the one. And that had to do initially with the exhibit that had started with a page 133. And I've given the court reporter page 132 and the other parties. And what -- I forget which Respondent's Exhibit that is.

COURT REPORTER: Number 28, Your Honor.

MR. LARK: Number 28.

THE COURT: Okay. I remember that, I just can't -- let me just make sure I have it on my list of things to do that we can check off.

MR. LARK: Tell me when you're ready and I'll tell you the next couple ---

THE COURT: Okay.

MR. LARK: Looking down the list, as Mr. Lindemann can confirm, we've agreed for admission of Exhibits 6 and 13.

THE COURT: That's Petitioner's 6 ---

MR. LARK: Yes.

THE COURT: --- and 13?

MR. LARK: And Petitioner's 13.

MR. LINDEMANN: That's correct, Your Honor, 6 and 13.

THE COURT: All right. Petitioner's Exhibits 6 and 13, without object, are admitted.

MR. LINDEMANN: Without objection, Your Honor.

(Petitioner's Exhibit Numbers 6 and 13 were admitted into evidence at this time.)

THE COURT: All right. Mr. Lark, your ---

MR. LARK: We're ready to proceed. We'd like to call as our first witness Mr. Jeff Corbett to

the stand.

THE COURT: All right.

WALTER JEFFREY CORBETT, having been duly sworn, testifies as follows:

COURT REPORTER: Please state your full name for the record.

MR. CORBETT: Walter Jeffrey Corbett.

COURT REPORTER: Thank you.

MR. CORBETT - DIRECT EXAMINATION BY MR. LARK:

Q: Mr. Corbett, I know -- please tell The Court your business interest and background, please.

A: I own Wayne's Automotive Center. This is my 37th year of owning it. I've worked there for 39. I live in Aiken, South Carolina. And out of those 37 years I've been on the Highway -- South Carolina Highway Patrol rotation list for 37 years.

Q: Thank you. And your involvement in this Premier, what I've been calling Premier accident matter, can you provide some background as to how that began and then we'll walk through steps?

A: Well, the call originally come into our dispatch, from Highway Patrol to dispatch, who then, in turn, calls, you know, different

drivers and different supervisors and his opinion on what it is. And in this case we actually had sent one of the employees by there in his personal truck to see if he could give us kind of a heads up on what was going on and what was happening. They helped us, you know, to know what equipment to bring in the initial response to it, which is what he did when he went. So, then after he got on scene, he called dispatch and me to, you know, to let me know what he had seen at the very beginning of it to help us know what equipment to bring.

Q: And did the -- so, as to save time to get on the scene?

A: Right. We try to do that at most any accident, try to send somebody ahead of time so they can get there sooner so that you can get your equipment, you know, at least initial response equipment headed to the scene.

Q: And my understanding is that Wayne's is also on the rotation list for the state of Georgia?

A: Yes, sir. We're on the South Carolina and Georgia.

Q: Okay. And my understanding is that Chancy's, out of Georgia, was on the scene and then

patrol or somebody told them to leave. What do you know about that?

A: Well, once I got on the scene, I learned there was still some Georgia law enforcement there. I learned that another, you know, wrecker service had come to the scene and I guess was turned away from the scene, and that was Chancy's Towing out of Augusta. Both Wayne's -- I know we're on both rotations lists, you know, for law enforcement, so we could have done it either way, South Carolina, Georgia, you know. I mean, we're on both lists so we were -- you know, been approved to, you know, operate anywhere through there, you know.

Q: To your knowledge, is Chancy's on the South Carolina ---

A: No.

Q: --- Class C list?

A: No, sir.

Q: Now, there have been pictures.

MR. LARK: I'm just trying to see if I can find the specific exhibit. But, Your Honor, there have been pictures, black and white photos of the accident scene, already also in evidence in the record.

Q: So, Mr. Corbett, there was a fellow that's -- Mr. Watson agreed was the Premier insurance adjuster on the scene, named John. I forget his -- Haberger or something like that.

A: Yeah, I don't remember his last name, but ---

Q: Well, tell me about your involvement with him and so forth.

A: Well, probably the first involvement with him, when I got on the scene was -- I was more concerned with the environmental issues than anything else because we had a tractor trailer turned over with the drain pipes, you know. And we had diesel fuel leaking, we had engine oil leaking, we had anti-freeze leaking. All the fluids from the trucks, which are -- ain't in these pictures, that we had to first initiate and trying to stop before we had a bigger environmental, because we were working over top of the river and, you know, it has the big drain holes for the water to go down in there, just the rain. So, we was trying to stop those up and put down pads and floor dry to -- you know, to contain the leak. That was the most important thing in the beginning really before I talked to anybody other than --

I got stopped on the way, about mile marker six, it was at mile marker six, by a trooper who wanted to know if we could bring our traffic control stuff out because he was -- he had his one patrol car sitting crossways of the interstate. And he was -- said, you know, they was basically, you know, it was not in a safe place for him or anywhere else because there was no -- I mean, the cars were just right up under him. And he knew that we had a traffic control. And I had worked with that trooper before and he'd asked if we brought it out. So, that was the first call during all of this was to start bringing traffic control out for mile marker -- well, actually it was put out like about a mile before six, you know, part of it. And then was the cleanup part of it. You know, we didn't clean it up, but it was more or less the containment part of it in the very beginning. And then that's kind of when we sat back and we go -- you know, took a -- to kind of just start looking things over. There was a trooper on scene and that's when I met John, who was -- you know, he told me he was the representative from Premier in the beginning.

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And we talked back and forth. And I really didn't have a lot of correspondence with the state troopers. More of my stuff was with John because he was the one, I guess, sent there to watch the wreck or making sure, you know, what was being carried out was done the way that Premier wanted. That's who we was -- more or less our contact person.

Q: We heard testimony yesterday about the complaint essentially from Mr. Bob Watson. And part of his complaint, I believe would be fair to say, suggested that the rates were excessive and that the time took too long. Do you agree with those ...

A: No, sir. About the times being wrong, you mean, on the ...

Q: Took too long.

A: Oh, no, sir. I mean, as you -- we can see pictures of what actually going on.

Q: Okay.

A: And can explain what is going on and what the whole scene was like. It's a lot more easier to understand. Just to hear somebody talk to you about something does not give you the whole effect of actually what's starting beginning to

end, where the tractor was at, where the trailer was at, where the fluids were leaking at, everything that had to be dealt with on top of the bridge. We was also dealing with -- Georgia DOT was on top of the bridge with us assessing the damages to the -- you know, to the bridge. So, there was a lot of things going on in the very beginning that was -- you know, it wasn't just a supply -- I think the paper called this as a standard tow. This was far from a standard tow. You know, this was a rolled over tractor trailer, leaking fluids on top of a bridge that just happened to be on top of Savannah River.

Q: Both were -- the tractor and the trailer were overturned; were they not?

A: Definitely. Yes, sir.

Q: So, that's part of ---

A: It had rolled up on the guardrail and busted part of the bridge out where the center -- and they rode the guardrail down. It's amazing the guy didn't go into the river, but somehow he didn't. And then the trailer, once it got on its side, probably slid, you know, 25 or 30 yards or more on the side, you know, until it

come to a rest up -- the tires kind of up against the bridge.

Q: All right. We'll look -- I'd like to let us look --

MR. LARK: And based on these comments and in the interest of time to finish today, that I'll have them other here, but here's a set for you if you need to -- so, you can see them better, Your Honor. May I approach? This is the Exhibit 13 photos.

Q: And then -- so, please just give a brief description. I represent to The Court and the parties that they're in chronological order from the earliest to the latest, starting at 5:29 a.m. on the 9th of February and going to 6:48 or something like that on the same day. And the times are indicated on the upper left corner, unless the photo's too big and that meant -- some of them, the long ones, were on the bottom left. And let me see if I'm right on the closing time. That looks like 6:06 p.m. So, you know, we -- I'm glad that -- if you need -- if you feel like to give a -- just a specific explanation, Jeff, then if you would do that. And then if we need to have some

elaboration, feel free, but keep in mind that you've got other things to talk about with The Court here.

A: Yeah.

Q: So, what's this first one?

A: The first picture really is not -- I mean, it's showing what we're having to do. If you'll notice how the tractor trailer is laying on its side. In this particular picture what you can't tell is that the tires are kind of up against the bridge on the other side. So, if you was to upright it as it is right now, it would be in the water, you know, it would've stood up on the guardrail and been into the water. So, there's no way of uprighting it as it is right now.

MR. LARK: Those are in color. Would you like to see?

THE COURT: You can put them -- just put them on there, it's fine.

MR. LARK: Okay, it's not showing in color, I see. But -- okay.

THE COURT: It is.

MR. LARK: Oh, it is? It's just the dark.

THE COURT: It's dark.

MR. LARK: Prove it is 5:30 in the morning.

Q: Mr. Haberger's photos didn't have time for the scene -- they all seem darker, to me, anyway. I'm just going to get all this on.

A: That's the next photo ---

Q: Right.

A: --- that you can tell more of how the truck was up against the -- what you're looking right there, in the first part of it, you're seeing the tractor part, you know, where the fluids was coming out of it and where it was leaking, we was trying to contain it. And what you can't see as good in that picture, but you can still tell, it's too close to the bridge to upright as it is, so it has to be -- you know, you couldn't upright it in that picture, which is also -- the picture before that, if you'll look at it, is we actually had to tie to the bridge to slide this tractor and trailer over before we could do anything with it. So, the wire rope that you see going across the bridge is where we actually had to secure snatch blocks and stuff to the bridge, back to the truck and trailer and locations down it so that we could slide this truck over far enough so we

could upright it. And also you can notice in the very first picture is damages that was already done to the trailer. There's patches been done to it and in the trailer you can see the wrinkles done to it, you know, and damages, some preexisting and some during the slide part of it. This picture here is actually showing where we tried -- where we had to slide it over.

Q: Now, we're now at 566, the ---

A: 566 is basically the same as before. You know, it's a picture just showing the -- you know, where we was trying -- containing the leak, keeping it from going down in the water. And the truck still, you know, close to the bridge.

Q: All right, 567. And again, the same ---

A: Basically the same thing. We're still putting out floor dry and trying to contain the leak.

Q: We can see this better shortly when the daylight comes, but this is the -- am I correct, these tires are part of the tractor?

A: Tires are part of the tractor.

Q: And then here is the trailer?

A: The trailer, right.

Q: And, what -- and we'll see this, but in case

it's not clear, what did you end up having to do with the trailer or the tractor portion. Did you drag it somewhere ---

A: Yes. Once we ---

Q: --- uprighted it?

A: Yeah. If you wanted to keep going over the ---

Q: No, no.

(Multiple Voices at Once)

Q: We'll get to that.

A: In the end, what we had to do in this position was we ended up separating the truck from the trailer.

Q: And where did you take the truck part?

A: The truck part we took to the Georgia Welcome Center.

Q: What about the trailer part?

A: The trailer part we ended up dragging back to the South Carolina side. We actually had to send the truck, you know, into Georgia to come around, you know, because it was on the Georgia side. So, we kind of -- you know, we had to send our heavy duty wrecker on the other side, you know, come in through Georgia to get to it, to back back down there ---

Q: Did you put signage up on both the westbound

side, in South Carolina side and the Georgia side for traffic maintenance or ---

A: Yeah, we did. I mean, it -- that was being conducted during this time, you know what I'm saying? There was different guys.

Q: By your crew?

A: Yes, by our crew. And actually -- and later on we ended up having to call another company to come help and put out signage, some signage at the ---

Q: Vern's from Augusta?

A: Yes, to help us put signage and cones.

Q: And Vern's put signs out on the Georgia side and do some labor work or ---

A: Well, their's is more -- their's kind of started on the Savannah bridge coming into South Carolina.

Q: Okay.

A: On the eastbound side.

Q: Okay. On the east end, from Georgia?

A: From Georgia, yeah.

Q: 568 is a closer up. I'm not sure if that ---

A: Yeah, that's just the tractor, basically showing -- there it shows a picture of just a chain, you know ---

(Multiple Voices at Once)

Q: Okay. And now we're at 7:58 a.m., photo number 569.

A: 569 basically just shows a picture of where the truck and trailer had rode the guardrail down. It was that far up on the guardrail and it, you know, busted the ---

Q: And looking -- see where I'm pointing my finger up there to your right?

A: Right.

Q: That's -- and then going to the left, that's toward the Georgia ---

A: Yeah, that's the ---

Q: --- side?

A: -- Georgia side right there.

Q: Okay. 570, is a ---

A: That's pictures of where the truck had rode down the guardrail and busted the guardrail. That's what Georgia DOT was out assessing to see what they had to do.

Q: And that was 570. 571, more activity, I see a ---

A: 571 is after we had hooked, you know, two trucks to it. Because this was a loaded tractor trailer, you know, roughly I think

80,000 pounds or so. And we had hooked two trucks to it so that we could slide it over from the guardrail part of the truck so that, you know, in trying to getting it uprighted and it would land on the bridge itself and not either on -- you know, on the side of the bridge or in the water. So, that's -- that was after. And in this picture it's showing we were starting to get -- to put airbags under it. And the original thing, we was trying to put airbags under it because you don't usually -- the strongest points of a trailer is usually the back doors and the front. So, you don't usually open the doors on the trailer. If you do, you may never get them closed. So our initial response and was talking with the guy from Premier was to try and use the air bags to see if we could upright it on the bridge.

Q: And speaking of the Premier adjuster, did he object to your being there or did he ---

A: Oh, no. We talked the entire time when it was done.

Q: 572, is this the continuation of the air bag --

A: Yes.

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Q: --- installation?
A: Uh-huh. Air bags and the trucks getting in position, you know, to help lift it.
Q: Would that be Trooper Deering or Sergeant Deering or Corporal actually at the time, I think, on the scene there patrolling in the uniform or do you remember?
A: I don't remember who, you know, exactly who that was.
Q: Is that a South Carolina patrolman or Georgia?
A: Yeah, that's South Carolina Highway Patrolman.
Q: Okay. And here's ---
A: And that's ---
Q: --- the next one.
A: I'm sure that was when we was explaining what was going on.
Q: Okay. 573 at 8:00 a.m.
A: 573 is when we was trying -- had started to try and do the lift under with airbags. Like I said, we could not look in the trailer for the fact of, if you open the doors, we did not know that it could be shut back and you lose the structure. A lot of times a trailer will shift so it's not square anymore when you open the back doors. So, in explaining that to them,

that's when we decided we'd try to do the airbag. So, in doing that, you could not see -- all we could do is wait. You could not see what was inside the trailer or how it was spread out or what was going on.

Q: Because it was locked?

A: Yeah. And not wanting to open it. If we were to -- you know, if we were to open it there, we would've had to unload it there, which would mean the interstate would've been shut down longer. So, our initial response was trying to see if we could lift it with airbags. So, we had two wreckers hooked to heavy-duty wreckers with straps and was putting the airbags, you know, down the side.

Q: Okay. That's 573. Five seventy four.

A: That was -- that was either when we was getting this other truck ready, rigged up to lift, you know, with the straps because you had -- you know, they call it a Christmas tree wrap or whatever you wanna call it. It's basically two straps that's tied under the trailer and across so that it's like a basket so when you bring the truck up and then you also have the airbags along it, so it's kind of like -- the airbags

did most of the lifting and the straps are just kind of there to help -- you know, to help support parts of it.

Q: Close up, same operation?

A: Yes.

Q: Five seventy five?

A: Well, in that one right there is what you can see different is where you hook to a snatch block on the lower left rear of the truck and gone to the high side tire. So, when we was starting to, you know, with the upright, it would've pulled -- you know, pulled down on that tire to help in the rotation of rolling the truck back over.

Q: Five seventy six?

A: The same, just kind of a better closeup. You can see where the -- the top of it where the wire rope was going over the trailer and see the other truck -- the rotator was on the other end, which -- you know, with a strap and tied into the back wheels.

Q: It's 8:03 and 577, I see airbags.

A: Five seventy seven is when we start putting airbags down in and use cribbing to go down the trailer.

Q: Also 8:03 here, same part of the air cushion operation?
A: What number are you on?
Q: Five seventy eight.
A: Yeah, same thing. Yeah. And that's when the trailer started coming apart. That's when we stopped.
Q: 579. That looks like that's ---
A: 579 is really going back to an earlier picture as far as being able to see -- this is when the trailer was -- when we had slid it over. You can just see how far we had to slide the truck over to get, give it clearance so as, you know, we was trying to set it back up, it would've landed on the -- back on the road because you can see on the -- right here on the bottom of the bags are the tractor is landed in the oil and stuff.
Q: I call this the guardrail. Is that the correct term for it.
A: What?
Q: The guardrail?
A: Right, yes.
Q: Okay. So, you didn't want it, if you were uprighting it, to hit the guardrail?

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A: Right.
Q: Five eighty?
A: I still like, you know, was in rigging, getting it ready.
Q: Okay. Five eight one, 8:20 a.m. That's just showing -- well, you tell me.
A: Well ...
Q: That looks like a Wayne's truck.
A: Yeah. I can see -- looks like a cleanup truck.
Q: Okay.
A: And, you know, our environmental truck and our light tower and ...
Q: 8:28 a.m., 582. Is this cleaning up some kind of oil or gas?
A: Yeah. You know, that was after -- when is that point, I really can't tell other than I can see some cleanup trucks down there. It probably was getting equipment up or out.
Q: Now, from this perspective, this is -- this is heading -- looking eastbound, correct?
A: Yeah, that's looking towards Georgia.
Q: And that's ---
A: That's -- those trees are the -- where the Georgia canal is on this side, you know, where the ---

Q: That's the canal?
A: Georgia, right. Right there.
Q: What is this area? This is toward Georgia?
A: On the next one? Yeah. That's basically -- I'm sorry.
Q: Go to the next one.
A: Yeah, going toward -- yes.
Q: Sorry. Five eighty three, 8:28, same direction. This is the tractor. And you pulled that one toward ---
A: The tractor itself was ---
Q: --- the South Carolina Welcome Center?
A: --- that -- and then 584 -- 583 was hooking it to the tractor, 584 was when we was separating the truck from the trailer.
Q: Okay. I'm still at 583 up here on the screen.
A: Okay.
Q: If you don't mind, sorry. Isn't this the Columbia canal -- I mean, the Augusta canal that we're talking about, area here with the accident occurring ---
A: Right, right.
Q: --- river and canal?
A: On the river, yes.
Q: Because we're looking toward eastbound ---

A: Right.
Q: --- correct? Okay. Well, wait a minute.
A: That's looking ---
Q: No, that's ---
A: The truck is going westbound, but we're looking towards eastbound, you're right. And, Your Honor, as far as where I was standing and looking, at the truck, when we disconnected it, we pulled it westbound, but that's looking eastbound.
Q: I'm sorry to confuse you if I did. Five eighty four at 8:29 is when that ---
A: Yes. I was separating the truck and trailer, you know, the king pin on it.
Q: Before you uprighted it?
A: Yeah, so we could pull it up so we could upright it.
Q: 8:31, 585, that's, again, preparatory work?
A: Yeah.
Q: Showing the truck on it's side and damage already, okay. Again, 586, these are the ropes that are -- you're going to use to try to pull this over?
A: Right. And if you'll look in that picture, it also shows the communication equipment we had

to use for the distance from one truck to another that, you know, when you've got somebody's hand that's in there to tighten up, you know, wire rope and you've got a, you know, a truck that pulls 120,000 pounds and another one that pulls 100,000 pounds, all it takes is a woe and a hoe and you've cut somebody's fingers off. And that's why we use these communications that we do so that we can talk to each other and see if you see a problem.

Q: Five eight seven, again, you see some equipment.

A: Right.

Q: And you're getting ready to go ahead and try to pull it upright ---

A: Right.

Q: --- correct? And this looks like fluids from the truck.

A: Right.

Q: Five ninety three at 10:05 a.m., this shows skid marks. What's ---

A: Yeah, that was just showing basically where the ---

Q: Would this -- is this where skid marks from where the trailer was ---

A: Yeah.
Q: --- taken back to the South Carolina ---
A: Yeah. The truck and trailer -- well, that's actually the truck and trailer's skid marks to where it was up on the rail.
Q: Okay. And this is the canal here?
A: And that's the Savannah River facing the canal, right. That's the Georgia's side you're looking at.
Q: Okay. Five ninety four at 10:22 a.m.
A: That's where -- a picture of what -- you know, the adjuster. We was going to cut the strap off the back of the trailer. This would've been after, you know, we would've moved the trailer.
Q: Is that -- is that your hand or is that his hand?
A: No, that's mine.
Q: And who took the picture?
A: I think that's the adjuster in that.
Q: Okay. And I'm not sure if this is the same lock ---
A: Yeah, that's just showing us cutting the lock off.
Q: Is that the same lock?

A: Yeah, that's the lock that was ---
Q: That's 595. Okay. Now, 596 at a little after -- or almost 1:00 p.m.
A: That's showing inside the trailer, what we was dealing with, you know.
Q: Which was what?
A: Of the load that was inside the truck. This trailer was double loaded. It just didn't have one stack of dog food from front to back, it had two. So, it had one load at the bottom and another load at the top, so it was double stacked. So, that explains a lot on -- part of the problem we had with airbags because it was -- notice you had -- of course you had all that weight, but it was along the whole length of the trailer.
Q: Five ninety seven is showing, again, and interior shot ---
A: Right. It's an interior shot. It's showing how everything's turned upside down.
Q: Okay. And so that's what you were ---
A: And anything you can see a pallet on means there's a load under -- a load of dog food underneath it.
Q: But that it's -- this is the inside of the ---

A: Inside of the trailer.
Q: --- trailer turned on it's side?
A: Right.
Q: Okay. So the -- okay. And at 1:03 p.m., 589 is ---
A: Showing our equipment trailer and our trailer that we had brought to the scene for -- to load the dog food back in.
Q: Is this going to the -- where my finger's pointing, going -- is that towards South Carolina?
A: Right. The trailer ---
Q: Okay.
A: The front of that trailer's pointing toward South Carolina.
Q: Okay. And so, these are -- these are cones that were ---
A: It is.
Q: --- put out? Five ninety eight at 1:48 p.m.
A: That shows actually where we'd moved some of the signage because I think that's getting closure -- I think that's mile marker one. Because at that time the interstate was back open and so we was -- it was just a sign kind of to showing -- still showing that -- you

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know, that we was still working ahead beside the road.

Q: Okay. And 599, at 1:48 p.m., that's ---

A: Yeah, that's the sign right there.

Q: And that's heading into ---

A: Yeah, that's ---

Q: --- South Carolina or Georgia?

A: That's heading like into Georgia where we was working.

Q: Okay. At 1:48.

A: Yeah.

Q: Now, this is -- I mean, the river is back here behind us, right?

A: No, the river would be straight on in front of you.

Q: Okay.

A: That's the one mile -- that's saying it's one mile to mile marker one.

Q: Okay. 2:32 p.m., number 600 in our continued numbering. What's -- this is what?

A: That's where we was starting, you know, to upright the, you know, the dog food, starting to get it out. Had to -- it had to be -- you know, you had to get a pallet out separately and then every bag had to be picked up

separately and put on a pallet and then moved to a different location so it could be wrapped.

Q: Did you use the pallets on the vehicle?

A: We used most of them. I think we had to get a few that were, you know, crushed or bad, but a lot of 'em we would be able to use.

Q: Okay.

A: But some of them we had to -- you know, I think we had to get a few.

Q: All right. This picture's 590 at also 2:32, what the fella's got his hand on, is that a pallet?

A: That's a pallet that we'd loaded up.

Q: So, you had to load it onto pallets, so this is not a pallet that stayed in tact?

A: Yeah, no. There was nothing that stayed in tact. Every piece, I think I've got it somewhere. I don't know how many bags of dog food there was, but -- laying around, 30 to 35 pounds, every one of 'em had to be hand lifted, picked up and put on the pallet. So, it wasn't just like you could walk in there and pick them up either. You was dealing with turned-over bags, you know, was dealing with still partially, you know, wrapped bags, and you was

dealing with pallets, all of that inside the trailer.

Q: And at this point, was the trailer -- well ---

A: The trailer was on the South Carolina side here.

Q: --- was on the South Carolina side?

A: Yeah. And we drug it to here, so we could get the road back open.

Q: All right. This 591, also 2:32 p.m., looks like pallets of ---

A: Yeah.

Q: Where is that going to?

A: Which -- what number are you on?

Q: Five ninety one at 2:32.

A: Five ninety one?

Q: Yeah.

A: Okay. That was a -- the piece of equipment before it, you see it was being used in the trailer that was turned over. So, it what they would -- is they would bring that -- you know, hook it, pull it out, they would set it on the ground and then we'd come in with this -- with the loader, the backhoe and pick it and move it so we could wrap it, you know, with the saran wrap or whatever. I don't know the correct

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name for it. You know, wrapping to go around it. And then we could -- then we had another crew that had to be in the trailer. So, once you pick this up, it has to take it to the trailer, and then they had to have a ---

Q: Five ninety two?

A: Well, then they had -- those guys had to have a pallet jack then to move it to the front of the trailer. So, you had the crew inside of here too.

Q: The last is the 2:32 p.m., 601, another shot -- -

A: Just another shot of us still ---

Q: --- getting loaded. So, it -- and I think you've already -- basically was saying this. Each of these pallets had to wrapped with a cargo wrap ---

A: Yeah. Every -- had to be -- yeah. I mean, that's -- Because they won't stay on.

Q: This is at 5:48 p.m., it is ---

A: That shows, looks like one, two, three -- five guys that I can see, maybe more. That's still inside, hand loading this, you know, as they worked their way down the trailer. And then a driver in the skid steer, you know, that's

going in there and picking it out and bringing it back out to the other crew that's wrapping it, so then another person could load it and put it in a trailer so another crew could put it -- you know, load it up in the trailer.

Q: What is the white stuff, is this previous wrap for ---

A: Yeah, that's stuff on the floor from we had removed, plastic and ---

Q: --- broke when they turned over?

A: Right. And we had to, you know, cut it loose.

Q: We're about at the end here, 603.

A: That's one of somebody doing a wrap around a pallet and a tractor waiting, you know, so they could load it.

Q: 6:06 p.m., number 604, page 41, it's a long ---

A: That shows where we were still working while they had -- because you could only load in our trailer because there was no way of doing a double stack. And so, you had to load the trailer, take the -- leave there, where we was at, go to a loading dock, unload that load that you had at the loading dock, then come back here and start the whole process again. So you actually had to leave, completely unload this

load again, and then come back. And while they was gone, it showed us -- we was still working, stacking it and getting ready for whatever was coming back.

Q: Do you have any response to Watson complaint that the load and reload charges were excessive?

A: Well, he probably -- he wasn't there. He didn't understand what was going on, of what all the process was of this being a double stack load of you having to -- you can't double stack in a trailer beside the road.

Q: Would you do it differently if you were to ---

A: There's nothing you could do differently. You had to -- we had the best equipment that could be there to get the job done as fast as it could by doing -- having somebody working in the trailer, having crews to wrap it, having another person on the backhoe to put it in the trailer, have another person in the trailer that could be moving it, and having somebody else there ready to go, you know, to drive the truck to go get it delivered to another place.

Q: Number 605 at 6:06 p.m., more of the loading?

A: Right.

Q: Or was this part of unloading?
A: No, that's still loading.
Q: Loading? Okay. And then the final six ---
A: And that just shows more ---
Q: --- 606.
A: --- you know, getting it ready.
Q: So, this, all this -- Jeff, all these pallets were put into a trailer and then ---
A: And loaded into the back of our trailer.
Q: And they were -- then how'd you get back to the South Carolina side, just drove in the middle of one of the lanes?
A: Well, when it come back down?
Q: Uh-huh.
A: We would have to bring, you know, we would come down with our truck and trailer and go to exit 200.
Q: And come all the way ---
A: And come back around, come back to here. Yeah, you couldn't cut between there because that's where the trailer was at that we was doing the work. So, you had to go into Georgia and go on down to Riverwatch Parkway, come back around, to park the trailer.
Q: Do you happen to know the speed limit going

westbound onto the Savannah River bridge on I-20?

A: South Carolina side is 70.

Q: What is it on Georgia side coming ---

A: Georgia's 55.

Q: So, it drops 15 miles ---

A: On top of the bridge, however they -- it's a 15 mile on the South Carolina side.

Q: Did you happen to talk to the driver of the Premier trailer?

A: No, I didn't see the driver. I ---

MR. LINDEMANN: Your Honor, that would be hearsay. I would object ---

THE COURT: He didn't talk to him, so.

A: I didn't talk to him.

Q: Okay.

A: The only person I talked to on a consist basis was the adjuster from Premier. During all this time Highway Patrol wasn't there. They were -- they had left. The only time Highway Patrol stayed on the scene was until we opened the highway and then they was -- they wasn't there anymore. North Augusta Public Safety come down there and talked to us, you know, just to make sure we was -- but there was no Highway Patrol

on the scene. You know, they may have come, like they would periodically do, just to come down. But as far as being on scene and helping traffic control, they was gone when we ...

Q: Thank you. We have included as Exhibit 11 a media update.

MR. LARK: May I approach, Judge?

MR. LINDEMANN: Your Honor, we have an objection to Exhibit 11 before it's published. I mean, it simply is something printed off the internet for a -- apparently a TV station website in the Augusta area. I don't know how this information is relevant, first of all, but it's clearly hearsay ---

MR. LARK: Well, maybe I should ask the question first.

Q: Is this a photograph on this page, 430, of the Premier trailer that you subsequently uprighted?

A: Yes, sir.

Q: And apparently somebody from -- you didn't take that but ---

A: Oh, no.

Q: It is the same event?

A: Same event, yeah. There was news, you know, 6,

12 Fox 54, all -- you know, Augusta there.

Q: And then the indication is this was between the Savannah River and canal?

A: Right, right. Yes, sir.

Q: Now, the -- this says the accident happened ---

MR. LINDEMANN: Your Honor, again, to the extent ---

MR. LARK: All right.

MR. LINDEMANN: --- he's using this as evidence of the location of the accident, I mean, clearly the photographs -- if Your Honor's familiar with the area, the August canal is on the Georgia side and it's beyond that island that you see in the photographs. This was nowhere close to the Augusta canal. To the extent they're trying to use newspaper, I mean, a websites -- and I don't know specifically what it says about the location in here, but, I mean, it's clearly hearsay and not admissible.

THE COURT: I'm not sure what the purpose of that is to show. That's my concern.

MR. LARK: It's to corroborate what he's already testified to.

THE COURT: He's testified. I don't think anybody disagrees with his description of the site, so I would -- I agree with Mr. Lindemann, I think

that's a -- of dubious value, so I will sustain the objection.

Q: I'd like to present the portions of what we've marked as Exhibit 10. How far across the bridge was -- before I do that, how far across the bridge was the -- when you got to the scene of the accident, was it over halfway across the Savannah River?

A: Yeah, it was closer to the Georgia side than the South Carolina side.

Q: Okay.

A: Which could ---

Q: Between the river and canal?

A: Well, you had the river, then, as they said, there's some woods there and then you had the canal. And we was in between the river part and the woods where the canal was.

Q: And the woods where the -- the woods are what's called, I think the clearing in Georgia, Augusta?

A: I don't know exactly what they're call. We just -- what's called a canal. But, you know, it was -- you know, it was over halfway of the bridge.

Q: In our exhibit marked Number 10, we have

provided in discovery some certificates of completion by you and Sherry concerning training. And I don't -- I'd just like to briefly read out the names. And to the extent you -- to confirm your training. Have you provided me with these certificates?

A: Yes.

MR. LINDEMANN: And for what it's worth, Your Honor, I'm not sure the training is relevant. We're not suggesting these people were not trained to be able to do the work they did. This is purely an issue dealing with failure to release cargo and failure to charge a reasonable fee. So, you know, for what it's worth, no one's questioning whether or not these folks had the proper qualifications. They were determined to have the proper qualification, they were put on the rotation list. This isn't a challenge as to that.

MR. LARK: I'm sorry. Does that mean he agrees to admit Exhibit 10?

THE COURT: No. I think what he's saying is he agrees without Exhibit 10 that these folks were professionally qualified to do what they were doing.

MR. LARK: Okay. All right.

Q: Mr. Corbett, do you agree?

A: South Carolina Highway Patrol requires -- does not require any training. You can -- as long as you own a truck and you meet the requirements, you're on the list. They don't care if you're trained or not. We do this on our own so we can better do the job to get it done safely, you know, because a driver's working a field -- we do it for our own safety and our drivers and for our knowledge so we can get the truck done. South Carolina Department of Public Safety, there's no requirements. As long as you can buy a truck, you're on the list. They don't care about your requirements.

Q: Do you hold any position in the -- among the towers in South Carolina?

A: This my second year being the president of South Carolina Towing and Recovery Association.

Q: TRASC is the acronym?

A: Right.

Q: Are you the first president of the -- at the association to have problems with the Department, Highway Department ---

A: Actually I'm the third.

MR. LINDEMANN: Objection, relevance. I don't know what it means to be -- what problems means, so I'm not sure ---

THE COURT: I sustain that objection.

MR. LINDEMANN: Thank you.

A: I could explain it, if you'd like, the problems.

Q: Are you aware of disciplinary actions?

A: Yes, I am. Past and present.

THE COURT: He's objected to that and I've sustained that objection. I'll sustain it again.

MR. LINDEMANN: Thank you, Your Honor.

Q: Number 9 is in evidence. It's marked page 406 in the discovery responses. And what is this, Mr. Corbett?

A: Wait a minute. Is that in this one? In the notebook or in this? I can't see that close enough to read it. Oh, wait a minute. I forget it has it here. That's the manifest, you know, of the truck. It's showing the weight of the dog food, you know, what the contents was of inside the trailer and the weight.

Q: And then what are these -- I'm sorry, these ---

A: That's roughly what we figured out the pallets.

They were 40 by 40. And they average -- a pallet weights 48 pounds each. It was 1,424 bags of dog food that had to be lifted off the pallets, re-put on pallets, re-wrapped, and redone.

Q: Is this your handwriting?

A: Right.

THE COURT: Mr. Lark, before you leave that ---

MR. LARK: Yes, sir.

THE COURT: --- what exhibit is that?

MR. LARK: I have down Number 9.

THE COURT: Which -- Petitioner's 9, Respondent's 9?

MR. LARK: Petitioner's 9, sorry. It's in evidence, Your Honor.

THE COURT: I've got Respondent's 9 admitted. I don't know that I have Petitioner's 9 admitted. Is that ---

MR. LINDEMANN: We have no object to it. I thought that was one that we did cover right after lunch yesterday, but I have no objection to Petitioner's 9 coming into evidence.

MR. LARK: Are we okay? May I proceed, Your Honor?

THE COURT: Yes, please, I'm sorry. I just wanted to make sure.

Q: Maybe you can see this. At the address at the

top is customer address of Tractor Supply in Macon, Georgia. This tractor trailer was headed eastbound into Georgia.

A: That's correct.

Q: And is this -- do you know whether this is -- was to be the destination of the cargo?

A: It was going into Georgia, yes, sir.

Q: And Tractor Supply, as far as you know, based on this?

A: Right.

MR. LARK: I'll ask this, Your Honor. I'm not trying to be anything but helpful to move this along. And in that regard, these aren't in, but I am not sure whether there is some objection to their use. And Exhibit 15, we've got a map showing the river boundary between the two states, two pictures of those and then the additional, the second one shows the canal.

MR. LINDEMANN: Do you want to hear from me, Your Honor?

THE COURT: We're talking about Petitioner's Exhibit 15?

MR. LARK: Fifteen, two boundary maps.

THE COURT: And two boundary maps.

MR. LINDEMANN: Yeah. They're two Google maps and

they're actually diagrams as opposed to the actual aerials. You know, our position on that is what I stated yesterday, Your Honor. This whole issue of whether or not the accident happened in Georgia or South Carolina is not an issue that was raised until just a week or so ago, long after the discovery deadline had passed. It's never been mentioned. It's not mentioned whatsoever in the Petition for a Contested Case Hearing. As Your Honor -- as we discussed yesterday, there have been numerous amendments made by Petitioner's counsel to the prehearing statement. The latest one raised this Georgia issue and questioned whether or not there was preemption under federal law. You know, the bottom line is, Your Honor, we weren't allowed to do any discovery. They've produced all of these documents just within the last week to 10 days. And quite frankly, I don't think it makes a darn bit of difference because it has been stipulated that they accepted this rotation call from the South Carolina Highway Patrol. It was also her testimony that the Highway Patrol's the one who investigated this accident and prosecuted the

driver. So, a lot of these documents go to this whole idea of, you know, what the responsibilities were. He has other documents dealing with a FOIA request that he received from the Georgia DOT that, again, we didn't get until last week, which simply indicates that Georgia had maintenance responsibilities for this particular bridge, that there are a number of bridges up and down the South Carolina/Georgia line, Georgia takes care of some bridges, South Carolina takes care of others. And maintenance responsibility has no bearing whatsoever on, number one, where the accident happened or, number two, whether or not this was a South Carolina Highway Patrol rotation call and therefore our regulations govern.

MR. LARK: Your Honor, the Respondent added Bob Watson on May 15th, the deadline as a witness as far as the discovery goes, since The Court had said I'm not going to extend discovery any longer. On the other hand, in the prehearing order, a party has the responsibility as it does under the rules, to update prehearing statements and supplement for discovery. We've

done that. I did not understand and realize that the traffic collision report that is in evidence misstated the location to the extent that it does. And that the Georgia patrol was called to the scene as well as the South Carolina Patrol. And whether or not, because Chancy's wasn't on both state's rotation list, that that actually was the reason that Wayne's got the call, I don't know. But it was otherwise to our -- in light of the Premier adjuster being on the scene, an authorized tow to -- even if it is intrastate, which we disagree with, under the federal law. And we cited that federal law in one of those supplements to the prehearing statement. And by no means is -- this is basic to the case and by no means is this any kind of attempt to do anything other than comply as quickly and thoroughly as possible to your prehearing notice order. And so, we would be prejudiced if we can't -- I mean, we already had admitted the photographs. And he's testified as to the location of the accident and where the accident actually occurred. The fact that we're not -- this is not a poor claims act state case where

it's an occurrence and it's unfolding of a sequence of events. This is what the -- where the damage occurred after they hit the guard -- the guy hit the guardrail and so forth. We've got the empty chair Premier and the insurance company as well. And frankly, you know, with the limitations, the fact that they didn't depose our folks, well, I tried to depose the officers, Brimley. But, again, that was through limitation to three depositions. So, I would respectfully suggest that you allow them to be considered and wait until the end. If you need to, wait to rule until you hear the rest of the testimony from other witnesses today to rule on some of these matters. But we're not dragging our heels. We just learned. If I had realized that the collision report was as incorrect as it is, stating that it was -- basically they're seeing it from the eight mile marker when they say the driver was spotted by a witness driving erratically. Well, the impact -- point of impact -- the first point of impact wasn't until it was on the bridge and the guardrail. And consequently it occurred to me that, instead of these black and white

photos, I need to be looking at other photos, that there are some. And there were these color photos, so I provided that in connection with these other matters that Mr. Lindemann is referring to. Now, as to the -- since he's -- I made a FOIA request to South Carolina DOT, Linda McDonald, Chief Counsel's attention for the same agreements as well as Georgia, what they call open record requests. And I got those in response to that. And they're in here as proposed Exhibit 12. And so, while other witnesses today might testify as to the existence of those, the fact that we've already agreed, my FOIA request to the Department are in evidence, that there's no reason why a sister agency's responses to the request for those two things shouldn't be allowed or otherwise probably The Court could take notice of them. And then that has to do then with conceptual drawings that were just announced because of the planned expansion of the I-20 since it's deemed an obsolete interstate and unsafe, that were released in the middle of July jointly by the Georgia DOT and SCDOT. We have a set of those conceptual drawings. Why?

We're talking about GPS -- DPS with a safety function and things like having an excessive speed limit shown to be 15 miles less in Georgia than South Carolina, that sort of thing arguably, to me, adversely affects the credibility of DPS, who is the respondent here. So, I don't -- then there were work summaries that we also got as a FOIA only recently because I, again, appreciation of the misidentified location on the collision report itself, which, while it says it's not factual, it's based on the best information. And I'm seeking diligently to get the best information for this case and Your Honor. So, these work summaries in our proposed Exhibit 18 just recently came in to because I just realized, again, the importance related to this showing GDOT did all the work. GDOT, under the maintenance agreements, has responsibility for eastbound and westbound traffic on the Savannah River bridge, the entirety. But in this instance, it's Georgia anyway that came in to do these repairs. It all goes towards -- to support the -- this interstate notion that this is a unique matter. We believe or hope there's

no other tragedy or anything involved with this bridge, resulted in several tragedy -- deaths from accidents, that it's important because it just happens to be important where the accident occurred. And this is consistent with Mr. Corbett's testimony, which counsel did not object to concerning that matter. Thank you.

MR. LINDEMANN: Just real briefly. The exhibits dealing with the FOIA request from the South Carolina DOT haven't been presented to The Court and admitted yet. And I certainly have the same objections as to that. Basically his Exhibit 12 incorporates, just haphazardly, both the FOIA request from the SCDOT and the Georgia DOT. I mean -- and quite frankly, that's all hearsay as well and hasn't been authenticated as an additional basis. But all of this has come in just in the last week to ten days. I would also make the additional point that he suggests something to the effect of Bob Watson being named as a witness. Bob Watson was named as a witness because the Petitioner took the position at the agency level that we didn't make Bob Watson available to them, essentially confront their accuser, even those this isn't

a criminal matter, so we corrected that. He knew that and there certainly was no surprise to him that Bob Watson would be a witness and he certainly didn't object to him being a witness. That was our attempt to a deal with one of the procedural issues that he raised below.

But bottom line is, Your Honor, you know, I haven't had the chance to do any discovery on this. Frankly, I don't think it's relevant. I think when we hear the arguments about preemption anyway, number one, they didn't plead it, and that preemption is a defense that is waived if it's not pled. Number two, when you look at the federal statutes, there's an exception in the federal statutes for towing operations from a rotator -- rotation list such as this when it's a non-consensual tow. And in this particular case it falls squarely within that exception. So, the bottom line is, really this whole concept of where this accident came is absolutely irrelevant, not just factually, but legally as well, and the issue hasn't been preserved. And I don't mean to overly complicate this, but I just can't allow this

evidence to go in because of all of these different bases for objecting to it. But I think you'll find that the legal issue has absolutely no merit as well.

MR. LARK: Your Honor?

THE COURT: Go ahead.

MR. LARK: I'm sorry, we -- I mean, we had already filed our Petition for a Contested Case. There is a reference to additional matters. Then we were following the prehearing, you know, Judge -- Your Honor's ruling to be updating matters as we had them and we had the duty to do that and we complied with that.

THE COURT: I understand -- I think I understand where you're going with this. And I'm -- frankly, I don't think this the forum for that. I'm not sure what -- which -- what forum would be. But I'm inclined to say that this is -- for the purposes of what we're doing here, that's irrelevant. He's testified, he showed us pictures of where the accident occurred, where the -- which way the tractor was pulled into Georgia, the trailer was pulled into South Carolina. What we're here on is the relationship between the billing of this

accident and the Department -- the South Carolina Department of Public Safety. It's just a much narrower issue, I think.

MR. LARK: Well, we did raise -- I disagree with Mr. Lindemann's comments, though. We had -- we've consistently argued it below and in the contested case hearing that the Department improperly applied what's called biding norms. And I've cited some cases. And that means, in this instance, the -- that the fact that the wrong state took -- wrote the report up -- I mean the matter could be transferred to Georgia if that's something. But it's certainly relevant because the rate schedule is intrastate only. And aside from preemption, just the fact that it's been -- it's interstate, the South Carolina rate schedule is not an interstate rate schedule, has no such interstate applicability. And at worst, the functions were performed in both states. And so, I think, if you look or -- we have the Georgia -- one other proposed exhibit is the Georgia record qualifications list, policies, our Exhibit 16, identified in Wayne's Georgia registration information, both of those -- 17.

We've tried to enter them. They don't want to agree to admission of those. Those are clearly and basically relevant to this determination on these particular unique circumstances. And the fact that they're applying their schedule as an improper binding norm to affect authority and jurisdiction when they don't actually -- didn't actually have it, is right on. And I've argued binding norm cases before this Court for several years successfully. But this would be the heart of our case. Perhaps we do have CPA and Ms. Rochester testimony to come up in this Court. We're probably -- if I'll stop talking. But I'm sure -- if nothing else, ask that you not -- don't rule against us on this. This is just -- it's the heart of the matter. And the overcharges relate in part to some CPA testimony that we'll provide later -- not too much later today, hopefully.

MR. LINDEMANN: If I could just make one additional point. When he says it's the heart of the matter, Your Honor, I would ask The Court at some point to take a look at the documents that were raised in front of the Department itself when this discipline matter first came up.

They never raised this issue, there was never any question that this was governed by the South Carolina Highway Patrol Regulations. It wasn't raised in the Petition at this particular -- you know, when they appealed to Colonel Oliver, it's not in those documents. When they filed their Petition before this Court, it's not in those documents. This is something that came up at the very last minute. I don't think it has any merit because they -- as I indicated, they accepted this rotation call. There's no dispute. Ms. Corbett testified to that yesterday. The documents bear it out. They accepted the call from the South Carolina Highway Patrol. They're governed by the regulations of the South Carolina Highway Patrol. That's what we're here for, whether or not they followed those regulations. And if not, whether or not they should be sanctioned.

MR. LARK: Well, we think John Haberger, the Premier adjuster already on the scene and helping, cooperating, suggests either an actual or -- actual prior consent or an authorization or implied consent at the very least. And Mr.

Lindemann yesterday kept saying how everything before the DPS was moot under his Unisys cases. And so, you know, you can't have it both ways, Judge. And so, this is our opportunity to raise it. You may know ultimately, you know, be persuaded, but we sure as heck hope so. We're not trying to dodge rate-related matters either, but that will be -- hopefully unfold this afternoon here before too long. Mr. Rawl can schedule the comment three if ---

THE COURT: Well, Mr. Lark, I'm going to allow you some leeway with your questions and your testimony, but we're here because a South Carolina company wrote a bill that was not acceptable to the South Carolina Department of Public Safety. That's the issue before this Court. And insofar as we -- as I'm -- as I can restrict it to that, I'm going to. Now, again, you ask questions, you get some answers, I'll think about that. But that's primarily the issue here, is the reasonableness of the charges.

MR. LARK: And we'll ---

THE COURT: And that's -- if you can establish these charges as reasonable, you'll do a lot better

than telling me about this accident in Georgia.

MR. LARK: All right. The fact that it's one in the same, may I ---

THE COURT: Mr. Lindemann, I have sustained your objection.

MR. LINDEMANN: Thank you.

MR. LARK: Was that to not allow the exhibit, Your Honor.

THE COURT: Yes, sir.

MR. LARK: And I believe that was the boundary maps, the two boundary maps?

THE COURT: Yes, sir. I have it as Petitioner's Exhibit 15.

MR. LARK: Is there a separate copy I need to give to the court reporter as the -- in connection with the -- for the purposes of the record on that or not. I can't ---

THE COURT: Yes, sir. You can make that as a -- you can proffer that, put that in as Petitioner's Exhibit 15, not admitted.

MR. LARK: Okay.

THE COURT: It protects you for appeal.

MR. LARK: Yeah, okay. I'll just -- that's -- The Court's got it set.

(Petitioner's Exhibit Number 15 was proffered at this

time.)

Q: Mr. Corbett, I had asked you a question about did you take issue with the Complaint from Watson to the extent that it took too long to do this job. And you said, support -- I think you said you thought it -- he was wrong.

A: Uh-huh.

Q: Was -- and I think maybe you said this, but is part of the reason that it took the time that it did have to do with the length of time having to upload the trailer with the loose cargo?

A: Right, it was -- that was a complex call from the beginning.

Q: Did that have to be done before the trailer was uprighted and moved?

A: Right.

Q: And that -- the trailer was what went to the South Carolina Welcome Center side, correct?

A: Right. Yes. The trailer went to South Carolina side.

Q: And the cargo -- did the cargo get moved to the Wayne's storage facility or two places or ---

A: Two different locations.

Q: And why was it two different locations?

A: Because they had to have a loading dock to offload the, you know, the load. When we left the first load, we had to -- you know, we had to secure a loading dock somewhere else to go offload the truck.

Q: Because of the size of the load?

A: Well, and having to come back and reload it, you know. We had to secure a loading dock at a different location to be able to, you know, get it unloaded in a quick manner and get back.

Q: Okay.

MR. LARK: May I have just a minute, Your Honor, to look at my notes?

THE COURT: Yes, sir.

Q: Mr. Corbett, did the rotator have to stay on location until the scene -- the matter of -- the scene was cleared?

A: Yes, sir. It was being used to, you know, out on the scene because it had to still be picked up. You know, the -- we still had an overturned trailer that was still there.

Q: And if my prior questions about would you do it any differently wasn't specific enough, is there anything you could have done regarding the loading and reloading of the cargo to

shorten the time?

A: No. I mean, we -- if we wouldn't have had what we had, it would have taken a whole lot longer.

Q: Meaning you had the proper equipment?

A: Yeah, we had -- yes. should be able to get it unloaded. There was no Highway Patrol involvement in any of this, you know, any of this time really. They were gone.

Q: You weren't getting pressured to move on, move it out?

A: I didn't have any involvement with the Highway Patrol once I talked to the guy from -- you know, the adjuster. That was from my dealing with Highway Patrol was ---

Q: The adjuster was from Premier?

A: Premier, right.

Q: But you had some discussion with the Highway Patrol?

A: Yeah. I mean, they was there until we had -- they was on scene until we got the bridge cleared.

Q: And the fact that Premier adjuster was there and did not object to your involvement ---

A: Well, that's ---

MR. LINDEMANN: Object to the leading, Your Honor.

A: I was doing what the -- like I said in my last, I was dealing with the adjuster from Premier because that's who was there at the -- sent to, you know, to oversee the accident.

Q: From the outset?

A: Right. He was there when I got there.

Q: Thank you.

MR. LARK: Your Honor, that's all I have for this witness.

THE COURT: Mr. Lindemann?

MR. LINDEMANN: Thank you, Your Honor.

MR. CORBETT - CROSS-EXAMINATION BY MR. LINDEMANN:

Q: Mr. Corbett, I just want to run over a few things with you real quickly. You all sent an invoice for 21 hours for the rotator as well as 21 hours for the heavy duty truck, Class C heavy duty truck; is that correct?

A: I think that was on the original bill, yes, sir.

Q: All right. Did the timing of the -- of one of those change on the -- to the subsequent bill?

A: Yes. I think when we -- that was when they was, you know, asking for a bill and we was still on the scene.

Q: And so, what was the change?

A: Of the hours of one of the heavy-duty trucks.
Q: One of the heavy duty trucks?
A: Right.
Q: Okay. And what does a rotator do?
A: It's a rotating frame that you'd lift and -- it helps ...
Q: And then of course you have billed for your own time for 21 hours as well, correct?
A: Yes, sir.
Q: All right. And when did those 21 hours start and when did they end?
A: When I got the telephone call.
Q: All right. Can you give me any times?
A: No, sir. I mean, I couldn't -- I'm sure -- you went over that yesterday. I mean, the times I'm sure you have. I don't have them in my head, but I'm sure if you look through those papers, you'll find them.
Q: You can't tell me when the job started and when it ended?
A: No, sir. I couldn't tell you what time it is right now either.
Q: All right. Let me get you to look at the photographs that are Exhibit Number 13 right in front of you.

A: That's of a picture or what?
Q: Yeah, the photographs that are Exhibit 13, those are the pictures. And it looks to me like they were put in in chronological order. And I'm just going to ask you, what is the first picture, the time stamp from the first picture?
A: It look like 8:02.
Q: Well, I want to be fair. Look -- the first picture that I have is number 564, which I put on the board.
A: Thirteen? Okay. That's not the same thing.
Q: And it looks like the first photograph is a 5:29 ---
A: You're going to have to wait because that's the number that's in this.
MR. LARK: They're numbered at the bottom, one through ---
A: Okay. Yeah, but that's not -- this one says 13 and it's got 576. He's got 564.
MR. LARK: Mine ---
Q: Well, let me -- I'll help you out if you can just look at the screen.
A: I'd rather find it. If you'll just give me -- it's just I can see it better. It's what?

Five six four. Maybe it's not in here. Oh, I forget we have a screen right here. I'm sorry. I only think about these.

Q: That's what I was trying to ---

A: I know. I'm sorry.

Q: I know we're short on time.

A: Yeah.

Q: Five sixty four is the first one in the exhibit. See, it's numbered one at the very bottom?

A: Yes, I see it. I'm sorry.

Q: And what's the time stamp?

A: 5:29.

Q: Okay. And then as I read this particular exhibit, Exhibit 13, the last photograph that we have -- let me move it up a little bit so you can see it. Do you see a time stamp on that?

A: 6:06.

Q: 6:06. Okay. So, that's a little over 12 hours, would you agree with me, 12 and a half hours between photographs?

A: Yes, sir.

Q: Okay. But you can't tell me how -- what the time that the job started? Obviously it was

prior to 5:29, but you can't tell me how much before 5:29, can you?

A: I can look through these papers and let you know. I think the wreck occurred at what, like, 2:00 o'clock in the morning?

Q: I'm asking you.

A: Okay. Wait just a minute, I guess.

Q: Let me ask you this, because I'm not as concerned of when the wreck happened, I'm concerned when you began the tow and recovery. You follow me, Mr. Corbett?

A: Yes.

Q: Okay.

A: We got on ours 3:00 a.m.

Q: And what are you looking at for that, sir?

A: Exhibit 26.

Q: Can a I see that, please? And read -- this is Respondent's Exhibit Number 26 which are handwritten notes from your wife; is that correct?

A: I don't know.

MR. LARK: Does it have the top page on it?

MR. LINDEMANN: It does.

MR. LARK: Okay, thank you.

Q: Is that what that document is, sir?

A: It's a document telling us what time we received the call.
Q: And whose handwriting is that in?
A: I'm not a handwriting expert.
Q: It's not yours?
A: It's not mine.
Q: Can you identify your wife's handwriting?
A: It's somebody works at our location.
Q: Okay. And tell me what it says at the top that you're relying on?
A: Accident occurred 3:00 a.m.
Q: Okay. So, that's the -- and that's time that the accident occurred. My question to you is not when did the accident occur, my time (sic) to you is when did Wayne's first appear ---
A: That's the first information I have ---
Q: Let me finish my question, please, sir.
A: Okay.
Q: When did Wayne's first appear on the scene and initiate the tow and recovery operation?
A: According to the paperwork I have in front of me, says we was next on the rotation list at 3:00 a.m.
Q: And so, that, again, is the time for the accident. When were you first on the scene, on

the bridge and began the tow and recovery operation? That's my question, it's real simple.

A: Within 45 minutes because that's the time we had allotted ---

Q: All right.

A: --- from time of call.

Q: All right. So, do you have any evidence whatsoever, other than suggesting that it was within 45 minutes, because the time allotted, that you were actually on the scene and began operations?

A: According to the rules and regulations they called another wrecker service after 45 minutes, so that gives us 45 minutes to get there.

Q: All right. You said you had first sent a person out there in order to look at the scene before you actually brought your ---

A: Right. We actually got there sooner than that.

Q: What's that?

A: You're right. We actually got on scene sooner than that.

Q: Okay. Now, I'm not -- I'm asking -- I'm trying to figure out when your heavy equipment was on

the scene.

A: He was our first man on scene to give us equipment and telling us what we needed to bring.

Q: Okay. When was your ---

A: And our calls start from the time we receive it.

Q: You told me, I thought, that -- or you told The Court, I thought, that you said you had somebody who went by in their own personal vehicle?

A: Yes, sir.

Q: Okay. So, he didn't drive one of these ---

A: No, sir.

Q: --- heavy wreckers out there, did he?

A: But our time starts when we receive the call. Our equipment is on the call then for that rotation call. We can't do another call with it. Time we receive the call it's considered on that call.

Q: All right.

A: We work on the end until we got back, cleaned it up, and put it back in service, just like a fire truck.

Q: What I am asking you is, what time was the

heavy equipment on the scene and did the actual operation begin?

A: 3:15, 3:20 because I think it said it took him 15 to 20 minutes to get there, for the first driver to get there, call us back and let us know what equipment to start bringing to the scene.

Q: And you don't have that documented anywhere, do you?

A: I've got -- says 3:00 o'clock here, the next one on the list. I know he lived about 15 minutes away.

Q: Those are handwritten notes from some employee, you don't even know who they are?

A: These right here, it was either dispatch or either from my wife. I mean, but I can't tell you exactly which one, but it's a handwritten list that I believe y'all discussed about yesterday, this same exhibit.

Q: All right.

A: It shows times from beginning to end.

Q: Let me ask you this. Tell me the time that the heavy duty truck, the HD5, truck was off the scene.

A: I'd have to look and see if I can find that

too.

Q: Don't write on any exhibits, please, sir.

A: I only done it once. You need me to come sign it? I had to have something to write on a while ago. I was writing times and had to remember which questions you was asking. I can write on a dollar bill, that's fine with me.

MR. LINDEMANN: Your Honor, I don't know how ---

A: I'm just saying, I had to -- I just wrote down the times that you was asking a while ago so I would know. So, I had to have something in my mind to add up with the times.

Q: So, show me what ---

A: From the questions you were asked before.

Q: Show me what you've written on during the course of the trial.

A: 5:29, 12:30, 6:06.

MR. LINDEMANN: Your Honor, that's part of Petitioner's Exhibit 13, page 42, just for the record.

THE COURT: All right. We have some handwritten notes of the witness?

MR. LINDEMANN: Yeah, the witness made handwritten notes during the trial.

THE WITNESS: When he was asking me times, so that's

what those are, times.

THE COURT: Mr. Corbett, if you need to write something, let us know, we'll give you piece of paper, okay.

THE WITNESS: I'll just use them -- I've got something right here.

MR. LARK: What page was ---

THE COURT: Page 42.

MR. LINDEMANN: The picture that's number 42 of that exhibit.

MR. LARK: It's written at the bottom, it says 42.

MR. LINDEMANN: Yeah. And he handwrote some dates and times on there.

THE COURT: We'll make a note that that's not part of the exhibit.

MR. LINDEMANN: Thank you, Your Honor.

Q: Mr. Corbett, I might be able to help you along. What kind of a document are you looking for that would contain the time that that vehicle was removed from the scene?

A: I'm trying to remember. From the best I would say, I probably -- between 1:00 and 2:00 the following day.

Q: Same day? I mean, this entire operation happened on the 9th; did it not?

A: Yeah, like 24 hours later.
Q: So, the heavy-duty wrecker was on the scene for over 24 hours?
A: It was on scene for, I think, 21. But it was on -- actually I think it was on the scene a little more than that. But as far as actual time, I think it was like 24 hours.
Q: And why would the heavy-duty wrecker be on the scene after the bridge was clear?
A: You've got to use it to upright a trailer and the equipment that's still there. You can't put it back in service until you've finished the call.
Q: So, after the bridge was cleared ---
A: We still had a trailer on it's side that had to be lifted. The other truck was sent away. That's why the hours is changed.
Q: So, which truck was sent away?
A: HD 5.
Q: Okay. That's the one I'm talking about. So, the HD 5 left the scene when?
A: I think it said 12 hours later; is that right?
Q: I'm asking you. I don't know. I wasn't there.
A: (No response).
Q: Let me ask you this, Mr. Corbett, you don't

know the answer to my question ---
A: No, sir, not without looking ---
Q: --- from your own recollection?
A: That was in 2016. I can't remember to tell you exactly what time a truck left on the scene.
Q: Were you aware one of the challenges in this particular case is the challenge to the 21 hours that you all are claiming for the time of this operation?
A: Yeah. And that was also -- was in the -- we was still on the scene at that time when they were calling and asking for a bill. And we was trying to comply with somebody asking for a bill and giving them a bill. So, at that time, that was what they was given. That was, you know, more or less like a estimated thing, just like we had told about the airbags.
Q: The first bill was actually not provided until the 11th, isn't that right?
A: I don't -- I think it was before then.
Q: Well, I think the previous -- your wife handled that, right?
A: Well, I mean she -- that would be it.
Q: All right. Let me ask you this ---
A: You've been up for, I guess, over 24 hours,

it's time -- somewhere along there you've got to sleep, I would think, and come up with, you know, with a bill. So, you've got somebody that's trying to get a bill together, you know, from just the basic knowledge they know so that they can satisfy, you know, a company to start with until you have time to actually figure it the way it should be.

Q: What I want to focus on is the time of the operation itself. Let me ask you this, when was the bridge cleared so that traffic could continue to go across I-20?

A: I can go back and look again. I don't know.

Q: You don't have that information?

A: I'm sure I do, if you -- it goes back to me looking for it. I don't remember it by heart. I doubt you don't remember by heart something that happened in 2016.

Q: Is there a document that has that listed? I mean, what are you looking for?

A: A picture showing the trailer moved.

Q: All right. Well, let's see ---

A: That would be one indication.

Q: Let me see if I can help you out. Has the trailer been moved in picture 593 that I put on

the board?
A: I can't tell by that one, sir.
Q: You can't tell by that one? That actually is where the trailer was located; was it not?
A: All -- I can't even tell you what that is.
MR. LARK: Look at the screen right before ---
THE WITNESS: Yeah, I see it. But, I mean, all I see is a scrape mark, so I don't know if that's a mark before it got to the bridge or ---
Q: Oh, I'm sorry.
A: Okay. Now that helps a little bit.
Q: I was trying to show the time. Mr. Corbett, take a look at that. Does that help you?
A: Yes. That looks like the truck was gone at that time.
Q: Both the tractor and the trailer were gone by that time?
A: Yes, sir.
Q: Okay. And tell me, for purposes of the record, what time that photograph is, if you look at the bottom.
A: 10:05.
Q: Okay. So, you would agree with me by 10:05 a.m. the bridge was clear?
A: Yes.

Q: Okay. And once the bridge was clear, you didn't need the HD 5 any longer, correct?
A: I can't tell you exactly at 10:05 in the picture if that was -- somebody might have took that picture while I was still in the process of dragging the truck off or not. I mean, you know, we had to get it unhooked, disconnected, and get it ready to put back in service.
Q: All right. Well, let's look at that picture once again.
A: Okay.
Q: That's actually looking at the Georgia side, correct?
A: Right.
Q: And you dragged the trailer to the Georgia Welcome Center?
A: No, sir. The trailer was dragged to the South Carolina ---
Q: I'm sorry. The tractor.
A: No. We hooked it up to a truck. You can't see the Georgia Welcome Center from there.
Q: Okay. Do you see any operation going on at the other end of the bridge?
A: Yes, sir.
Q: And what do you see?

A: It looks like a truck or either -- or maybe that might still be the truck right there, so it probably was still in the process of moving it at that time.

Q: Okay. So, you're in the process of getting it to the Georgia Welcome Center?

A: That looks like the truck, but that's a whole different story for the trailer. The trailer ---

Q: I'm asking about -- I'm asking about the truck.

A: Oh, you -- it appears to be a truck on the other end of the bridge.

Q: All right. So, you're clearing the bridge right at 10:05?

A: Of the truck, not the trailer.

Q: All right. You already testified the trailer's already no longer in this picture.

A: But -- yes, sir. But, I mean, it could still be at the time of us moving it. I have no idea what's going on during that time.

Q: Is it fair to say within an hour of this picture that the tractor and trailer ---

A: Disconnected, yes, sir.

Q: Please let me finish the question, so we're not talking over each other.

A: Yes. That would be more than fair, within am hour.
Q: All right. So, by 11:00 a.m. you would agree the bridge was open?
A: We still -- from the looks of that picture there, we still had to do clean up and get the -- you know, had to still get the floor dry and do all the sweeping. I would not think it would be cleared up by that time, no, sir.
Q: Okay. Can you give me an estimate, based upon what you see in this picture, of when the bridge was open?
A: Not by that particular picture.
Q: Let me ask you this. I mean, part of your goal was to get that bridge open as quickly as possible so that traffic can continue, correct?
A: Yes, sir. So, traffic can start moving, yes, sir.
Q: So, if all that was required after the tractor and trailer were removed from the bridge was removing the absorbent that you had put on the ground and removing any type of debris, you could do that pretty quickly; could you not?
A: But you're looking at trucks, brooms, buckets. I mean, it's not like you're -- it's not like

sweeping your garage. I mean it's totally different. You can look at your picture, you can see it's not just on ground, I mean, it's spread out everywhere.

Q: Give me an estimate of how long that'd take.

A: Two hours probably.

Q: All right. So, by noon the bridge was open?

A: I would say so.

Q: Okay. So, we're in agreement now, after all of that, the bridge was open ---

A: By noon.

Q: --- by noon?

A: Yes, sir.

Q: Okay. And so by noon then you absolutely had no need longer a need for that heavy truck, that heavy-duty truck, the HD 5?

A: Yeah, the -- you talking about like the HD 5?

Q: Yes.

A: Well, you -- I mean, at that point you still got to reload. I mean, we were probably finishing up with that truck, yes, sir.

Q: Okay. And on your original bill -- and this is Respondent's Exhibit Number 6. If you'll look at the screen, I'll show you what I'm talking about. The original bill that was sent showed

---

A: Twenty-one hours.

Q: --- showed 21 hours for it?

A: Yes, sir. And that was the original bill that we did in the very beginning and that's the one we went back and changed, yes, sir.

Q: Okay. And that one wasn't changed until after Mr. Watson contacted your company complaining about the bill, correct?

A: Mr. Watson had nothing to do with us changing our bill.

Q: Okay. Let me ask it this way. The 21 hours wasn't changed until after the Highway Patrol got involved questioning your bill, correct?

A: My dealings was with Premier.

Q: Tell me when that change was made then. Tell me ---

A: I don't know. You'd have to ask my wife that exact question, exact time.

Q: Okay.

A: That'd give us when we had time to go back and look at the bill and go over it. Those were -- like I said, the original estimated, you know, times put on the ticket.

Q: All right. Let me ask you this, the rotator

itself, how many hours was it on the scene?
A: The entire time.
Q: So, it was on the scene even after the bridge was cleared?
A: Yes, sir.
Q: And why? What does a rotator do?
A: It picks up equipment, you know, wrecks that's turned over.
Q: Okay. And by the time the bridge was cleared, the trailer had been pulled onto the South Carolina side to the South Carolina Welcome Center?
A: Right. Still on it's side.
Q: Still on it's side. But it didn't need to be pulled up until the point in time that the dog food was removed from it, correct?
A: Yes, sir, but it had to be on the scene.
Q: And tell me why it had to be on the scene?
A: So it wouldn't leave and be called to a different call. Then we'd have nobody to -- you know, we wouldn't have a truck to be able to get, you know, the trailer back up.
Q: So, you're billing for ---
A: Waiting for equipment to get to the scene again.

Q: So, you're billing Premier $436 an hour for that equipment simply to be sitting there while the trailer was being removed?
A: Yes, sir. With permission and the knowledge of Premier.
Q: And what do you base that on? Who with Premier were talking to at that time?
A: Their adjuster that was there, John.
Q: Okay. And he was not an adjuster for Premier, he was an independent adjuster, was he not, called by Sentry?
A: He was called by the trucking company to come, but he -- you know, to come to the scene.
Q: All right. I'll allow ---
A: And that's how he represented himself.
Q: --- the record to stand for -- their photographs in there to show he was an independent adjuster. You dispute that?
A: All I can say he come said that he was with -- hired by Premier to come to the scene.
Q: All right.
A: And that's who I was under the direction of.
Q: Let me get you to look at photograph 600 real quick.
A: Okay.

Q: I'll put it up on the screen for you.
A: Yeah. Thank you.
Q: Do you see that?
A: Yes, sir.
Q: All right. It looks like that's a piece of rental equipment?
A: Yes, sir.
Q: Okay. Did you all rent that equipment for this particular job?
A: I guess we did.
Q: Okay. Is that included on the bill?
A: I would think so.
Q: And how did you charge that. Did you charge it by the hour or did you charge it by the cost of the rental?
A: I don't have the bill in font of me. I don't know.
Q: I'd be happy to give it to you.
COURT REPORTER: The ones that are admitted or ...
MR. LINDEMANN: If you hand me that stack, I'll find it for you real quick.
Q: Let me show you what's Respondent's Exhibit Number 6. The bill is after that first page.
MR. LARK: I believe the bill starts at handwritten page five of that exhibit, handwritten. Five

and six in reverse order. Looks like the first page.

Q: Are you looking at the bill?

A: Yes, sir. Where it says skid steer? Is that the one you're asking about?

Q: I'm asking -- yeah. I'm asking you what this piece of equipment, if it's included on the bill.

A: Is it included on the bill, yes, sir.

Q: Okay. And what is it listed as?

A: Skid steer track loader and transport.

Q: Okay. And that's what that piece of equipment is?

A: Yes, sir.

Q: And it was rented for this particular job?

A: Yes, sir.

Q: Was the invoice for that ever produced or provided to Premier or their representatives?

A: I don't know. You know, I can't answer that either way.

Q: Do you know how much ---

A: Like I said, it's there on the original bill, the 69,000 that we put together in the very beginning when we come back and re-did another one.

Q: Do you know what the rental cost of that was?
A: No, sir.
Q: Was there a mark-up of the rental cost by your company?
A: You say was there or is there?
Q: Was there? Was the $600 a mark-up or was that actual cost?
Q: It looks like it had on there a skid steer track loader and transport, so obviously we had to pay somebody to transport and we had to pay for the loader. So, this would have been two different costs involved in that.
Q: And they would've totaled -- equaled the actual costs for $600 or does that include some surcharge?
A: Obviously that's probably from looking at the rental of the piece of equipment and the tow charge being it's only $600. I mean, that's awful cheap.
Q: But you don't know because you don't have the bill?
A: But if I -- you're asking my opinion. I would say ----
Q: I'm not asking your opinion. I'm asking you how much it was.

(Multiple Voices at Once)

A: --- cost $600. I would say $600 is obviously or cost because it's got transport and the skid steer.

Q: But you don't have an invoice that shows that as the actual cost?

A: I have this one right here.

Q: That's your bill, correct?

A: (Nods head affirmatively).

Q: You -- is that correct?

A: Yes, sir.

Q: And you rented it from United Rentals?

A: Yes, sir.

Q: And you don't have United Rental's bill to show us how much you actually paid for the skid steer track loader?

A: And if I did, it would not included the transport.

Q: Why? Who would've paid for the transport?

A: That's a separate charging bill.

Q: All right. You would then have a bill also for the transport?

A: That's what it says, track loader and transport. That's why I said that's probably -- I would feel sure that's our cost because of

$600, because you're usually looking ---

Q: And you think it would be a nice round number like $600?

A: Yeah.

Q: Okay. A couple of other things real quick. Yesterday we talked about a couple of things that your wife indicted that she was not able to speak about. I want you to look at that same bill that's in front of you, Respondent's Exhibit Number 6. It looks to me like you charged a labor cost for a number of employees for basically transferring the dog food from the scene and then moving it and repackaging it; is that correct?

A: Did we charge for loading the dog food?

Q: Yes.

A: Yes.

Q: Okay. Right above that, the labor hours, there's something that says transfer cargo from scene to loading dock containment unit, this includes reloading an off-site facility. And it's $750. Do you see that?

A: Is that on the first page or -- hold on, let me see if I can ---

Q: It's on the second page of that -- it's

actually on the third page of that exhibit, the second page of the -- right above the labor costs. If you want to look at the screen, I'll show you what I'm talking about.

A: Okay. I think -- sorry.

Q: You see it right there, that little mark next to it?

MR. LARK: We can't see, your finger.

A: I can't see it.

Q: I guess it would help if I'd look at it -- do you see that now?

A: I think I found here where it says transfer cargo ---

Q: Right.

A: --- from scene to loading dock containment?

Q: How is that not a duplicative charge from the charging of the labor for the various employees who were doing the transferring of the dog food?

A: You had to unload this trailer at a different location.

Q: And you paid for labor for that as well, right?

A: Well, you had to -- we had to pay to have somebody else to unload it, yes, sir.

Q: And that's included in the labor costs,

correct?

A: A separate cost, you know. So, we had to pay somebody else to -- I mean, it didn't unload itself, so we had to pay somebody to load it, had to pay somebody to unload it. And we had to bring it back and we had to pay somebody to load it again and then we had to pay somebody to unload it again.

Q: So, you broke out the labor costs for part of the loading, but not all of it?

A: Because this was done more than one time. This load originally, remember, was double stacked. And we couldn't double stack it back in the trailer, so it had to be done at different levels and different times.

Q: All right. So, then look at this. The labor hours that you're charging here, it looks like -- doing the math real quick looks like 40 and a half hours -- oh no, I'm sorry, 39 and a half hours of labor costs, right here where my finger is. Do you see that? You're saying that wasn't all of the labor costs for moving dog food?

A: No, sir.

Q: All right. So you had additional labor costs

that you then didn't break out, you just charged a flat fee for?

A: Let's see. I believe that was at the loading dock because the other guys were still on scene still loading and packing.

Q: Well, my question to you, why did you break out some labor versus other labor? And by breaking out, I mean actually showing the initials of the employees who did the work and how many hours they did the work?

A: I guess just because it was done at an off-site place. You know, the trailer was taken to a off-site place, unloaded at an off-site place and that's just how it was wrote up.

Q: And what's the off-site place, was that a ---

A: Loading dock.

Q: --- facility of yours?

A: No, sir.

Q: And who owned that facility?

A: Dumpster Depot.

Q: And did you have to pay Dumpster Depot to hold that cargo?

A: Did I have to pay to hold it? No. I don't think we -- I don't think there was -- I think the only charge was in unloading it.

Q: Okay. So, there was an invoice then for the unloading?
A: I think there was some of our guys that actually, as a group, went.
Q: Your guys did the unloading?
A: Some of -- yeah, some of the -- well, you had the driver of the truck, you know, that was on scene.
Q: And so, who were the employees that did the unloading?
A: I don't have all their names.
Q: How did you arrive at the $750?
A: That's not something I could tell you. I mean, that would be more of a Sherry to answer or ask it on ---
Q: She said she couldn't answer that yesterday, to ask you.
A: By the time it took -- you got the trailer. You know, by the time you took the trailer, loaded the trailer, took, you know, the time that it took to do the call -- I mean, you know, to do the load. They got to go to a different place, unload it, and then come back. So, you had to have a CDL driver in there, you know, hooked to the truck, truck and trailer

and drive it to a different location. And then -- you know, then you had to have them unload it and then you had to have, you know, a CDL driver to come back. And, you know, was ---

Q: Let me get you to look at this other $750 charge that I have on the screen right here, it's on the first page of that document. Are you looking at the screen, sir?

A: I got you.

Q: All right. It says re-packing fee and reloading from loading dock onto trailer, second load. So, that's another labor cost, correct?

A: Yes, sir.

Q: And you're contending that's not part of the labor cost that you've already charged?

A: No, sir. They had to -- they was at a different location having to unload it.

Q: All right.

A: Our guys were still working in the pictures. What I was showing you earlier, they was still stacking and loading beside the interstate. That's our guys still working there while the truck and trailer's gone. And they're ---

Q: Does your own employees do the re-packing and

reloading that's for this $750?
A: We had our employees and we had Vern's Towing there ---
Q: All right.
A: --- that we paid to help.
Q: You charged Vern's labor separately, correct?
A: Right.
Q: Okay.
A: That's ---
Q: And I'll get to Vern's in a second, but this was done by your employees with some help from Vern's?
A: The loading and all?
Q: Was the charge that I have right here at my finger where it says re-packing fee and reloading ---
A: Yeah. It was done by -- it would've been done by somebody on the scene, either our guys -- our guys looked like they was still loading from the pictures, so it probably, you know, would've been like Vern's guys that went with 'em, you know, to go and do it, to go to unload it.
Q: Are you telling this Court that you did not break out that labor?

A: No, we just did it as one solid twice.
Q: How about this restocking and reload cargo where my finger is right now, that's another $500. Is that -- that's labor costs as well, correct?
A: Yes, that's labor cost as well.
Q: All right. And that's not included, your testimony, in the other labor costs that have been charged?
A: No. We also had to redo this again at our shop, had to unload this load again. It had to be loaded up from -- you've got to realize it had to be loaded again from the loading dock into the trailer. So, I mean, there was multiple loads of loading and unloading, not just one. We took it to a loading dock. Then you had to take it to unload from that loading dock again and put it in another trailer. And then we actually had another part over here, another location that had to be unloaded and put into a trailer. So, this load was unloaded more than once.
Q: And so -- and this was not reloading it in order for it to be then delivered back to Premier on March 7th, correct?

A: Was this a part of it?
Q: Yeah, was this a part of it?
A: Yeah, it probably was -- you know, as the time went on, yes, sir.
Q: So, how in the world were you charging Premier for something that hadn't even happened yet, that happened on March 7th?
A: We knew what we got to do. If you've got a load at somebody else's location, it's pretty smart, and we've got to unload it again and put it into somebody else's trailer.
Q: So, you're charging with that bill something that hadn't happened yet?
A: That hadn't happened yet?
Q: That's right.
A: At that moment it hadn't happened yet.
Q: Okay.
A: But I also said this was the original bill that was done and come back and corrected it, if you remember. I mean, this was the initial bill in the very beginning that had to go back and be redone.
Q: All right. Let me ask you a couple more questions and I'll move on. You had mentioned something earlier in questioning from Mr. Lark

that Vern's put out some signage for you on the Georgia side.

A: Yes, sir.

Q: Okay. Let me show you what was yesterday marked as Exhibit Number 27. Well, let me ask you this. Do you know how much you paid Vern's for that?

A: I believe it was a thousand dollars.

Q: All right. Let me show you Exhibit Number -- Respondent's Exhibit Number 27 ---

A: Right.

Q: --- which was entered into evidence yesterday. That's the only bill I've seen from Vern's.

A: Right.

Q: Are you aware of another one?

A: There was another bill and I -- you know, from them for traffic control and then their labor is the two different we got.

Q: Okay. So, this is the -- this one for traffic control then is for providing the signage on the Georgia side?

A: According to the this bill, yes, sir.

Q: Okay. So, that's the way you read that bill?

A: Yes, it's for traffic control.

Q: So, that would've been for what, the eastbound

digital sign?
A: It was ---
Q: It was on the Georgia side, it would be eastbound.
A: Yeah, Georgia. Georgia coming into South Carolina side.
Q: So, you agree with me that's the eastbound?
A: Yes.
Q: All right. Let's look at Exhibit Number 6 again.
Q: Am I correct that the signage that was provided by Vern's is listed on this bill here, emergency digital signage, I-20 east; is that it?
A: (No response).
Q: If you want to look at the board, I'm pointing it out to you.
A: Oh, yeah, okay. Emergency digital signage, I-20 eastbound.
Q: Is that the signage from Vern's?
A: That was part of it. We had -- we actually had cones and all out there too.
Q: You had cones out there as well?
A: We had cones at exit five, six, one.
Q: All right. What I'm interested in is the

digital board that Exhibit 27 is for. Is that what's listed on the bill as this emergency digital signage, I-20?

A: Eastbound, yeah. So, that would've been part of our signage and part of Vern's.

Q: Okay. And yet -- so, you're saying you had emergency signage out there on I-20 east as well?

A: Yes.

Q: Okay. How many boards did you have?

A: I don't know. Let me think. Five, one -- I'd say -- I think we had eight in all.

Q: Well, this doesn't show that, does it? It shows ---

A: No, sir.

Q: --- emergency digital signage, I-20 west at exit six and then emergency signage ---

A: Right.

Q: --- at -- with an east digital arrow board.

A: Yes.

Q: So, one specific board, correct?

A: Yes.

Q: Is this one specific board the one you got from Vern's?

A: One of these boards would've been from Vern's

and along with our signage, yes, sir. For eastbound?

Q: Okay. For eastbound.

A: Yes.

Q: Because said Vern's provided eastbound.

A: Wayne's and Vern's, yeah, you know.

Q: Well, my question is, you paid Vern's $720 for that signage, right?

A: According to this, yes, sir.

Q: Okay. That doesn't appear on the bill. What appears on the bill as $1,500, correct?

A: On that signage, yes, sir, from Wayne's and Vern's.

Q: And what signage is it from Wayne's? I mean it talks about one board; does it not?

A: Yeah. The cones and the ---

Q: The cones ----

A: --- emergency accident -- emergency scene ahead signs.

Q: Let me show you this, the cones are billed at $1,000 separately, correct?

A: Right. Yes, sir.

Q: Okay. I'm talking about ---

A: There was ---

Q: --- emergency digital I-20 east digital arrow

board. It talks about one board, correct?
A: It's talking about one board.
Q: For 20 hours at $75 an hour, correct?
A: Yeah, but that was -- that included more than just one digital arrow board.
Q: Well, that's not what it says here, is it?
A: And I also said here in the beginning, this bill right here was done in a haste in the very beginning and it had to be redone.
Q: All right. Let's find the final board -- the final -- let me show you Exhibit Number 24.
A: Okay.
Q: Is that the final bill?
A: Yeah.
MR. LARK: Is that Respondent's Exhibit 24, so I can ---
MR. LINDEMANN: Yes, it is. I apologize.
Q: How is the digital boards reflected on that particular exhibit?
A: I don't know. You talking about the one that says emergency digital I-20 digital arrow board?
Q: Let me show you. Look at the invoice that I've got up on the board. Do you see it?
A: Yes, sir.

Q: And that's the final bill, it's the $48,000 bill, right?
A: Yes, sir.
Q: You agree with that?
A: Yes, sir.
Q: All right. How does it list the boards there? It shows the emergency digital signage I-20 west message board Exit 6 detour, correct?
A: Right.
Q: The same as the way it was listed on the first bill, correct?
A: It's the same way it's listed, but it's also got this price is with a lot of items used. So, we used other items, but we didn't put it on this bill separately.
Q: But this item is a board that you charged 20 hours at $75 an hour for $1,500, correct?
A: It was a board and other cones, traffic controls.
Q: And that was unchanged from the very first bill?
A: Yes, sir.
Q: Traffic cones were a separate entry, correct?
A: Let's see. Traffic cones, yes, sir.
Q: There you actually reduce your price from $50

an hour to $35 an hour, correct?
A: Well, according to this bill it's 35, yes, sir.
Q: All right. And originally is was $1,000 for 48 traffic cones and you reduced it to $700 for 48 traffic cones, correct?
A: Yeah. And it was probably, I would guess, 100 traffic cones used.
Q: All right. The emergency -- let's go back to the Vern's sign. It's listed here on the final bill as emergency digital signage I-20 east digital arrow board, correct?
A: Westbound, that one?
Q: Eastbound, I-20 east digital arrow board.
A: That's the one we was just talking about?
Q: Correct.
A: Yes, sir.
Q: It's listed the same way on the final bill as on the first bill, correct?
A: Right, yes, sir.
Q: And same charge, $1,500?
A: Yes, sir.
Q: And you're saying that the bill for Vern's was for 720?
A: Right.
Q: So, why did you double -- more than double the

bill from Vern's?

A: Because it included other signage that we put out there with it. We put signs out that said emergency accident ahead. It was more than just Vern's signage with that.

Q: It doesn't say that on the bill though, does it?

A: But that's -- that's what it is.

Q: Does the bill actually reflect the actual cost from Vern's?

A: The ---

MR. LARK: Which bill?

MR. LINDEMANN: Sorry.

MR. LARK: Object to the form.

Q: Either bill. Do any of the bills you submitted ever show the actual cost of what Vern's charged you?

A: I don't think the actual -- I think it was always -- it was included with something else.

Q: All right. How about the labor for Vern's? See your wife testified yesterday that Respondent's Exhibit 27 was actually the bill for the $1,000 of labor.

A: Uh-huh.

Q: And that she testified it was $720, but then

there was a surcharge that was put on it by Wayne's to get it up to $1,000. So, you disagree with that testimony?

A: No, sir. We usually mark up our work.

Q: You mark up your labor?

A: Our labor and our supplies.

Q: Even labor from a third party?

A: Yes, sir.

Q: Okay.

A: We have to pay out on it and we have to insure the equipment. So, in order to do that, we have to charge more than it costs us because we're responsible for it.

Q: Let me ask you this, this invoice, 27, you're saying is not for the labor that was provided by Vern's, correct?

A: That says traffic cones.

Q: Okay. So you're agreeing with me, this is not an invoice for the labor?

A: According to that it's traffic cones.

Q: All right. Let me ask you this. Do you have an invoice from Vern's for the $1,000 worth of labor?

A: I do not know.

Q: Do you know how much Vern's charged you,

actually --actual costs from Vern's for the three laborers?

A: I think it was $1,000, what we paid them.

Q: You think?

A: Yes. I'm pretty sure it was $1,000.

Q: So, you're now telling The Court that there was no surcharge on the labor.

A: You asked about the sign.

Q: No, I was asking about the labor.

A: Okay. Well, there is a -- it was a surcharge on signage because we're responsible for them.

Q: I'm asking about the labor.

A: The labor, it -- if it was -- what does it have on here?

Q: It shows $1,000 for three laborers.

A: Then as far as I would know, that would be what we paid for it.

Q: But you don't know of any bill that actually says that?

A: This one.

Q: Any bill from Vern's that actually says that?

A: No, sir. I mean, I don't have it with me.

Q: Have you ever seen one? I can represent to you it hasn't been produced to me.

A: I'm not going to say I hadn't ever seen one.

I can just say I don't see one now. I mean, that's February 2016. I really ...
Q: The other thing I asked your wife yesterday she couldn't answer to was how much each of these employees are actually paid. Do you have that information, sir?
A: How much they're paid?
Q: Yeah.
A: Well, I could tell you -- I mean, what part of it you want to know?
Q: Well, let me ask -- let me start with you. How are you paid?
A: Vary weekly.
Q: Excuse me? Are you paid a wage?
A: Am I paid a wage? Well, at the end of the year just, you know, shareholder's contribution.
Q: Okay. I'm asking you are you paid as an employee.
A: Yes. I receive a monthly check.
Q: All right. And how much are you paid?
A: Oh, I could not tell you.
Q: Can you ballpark it for me?
A: I don't handle money, that part of it, no, sir.
Q: All right. How about any of these recovery technicians, BH, KG, KJ, JH, W -- BR, WB, can

you tell me how much any of those individuals are paid?

MR. LARK: Which exhibit are you looking at?

MR. LINDEMANN: I'm looking at Exhibit 6, their invoice.

A: And you're wanting to know how they're paid?

Q: How much they're paid.

A: For this particular job?

Q: No. You're charging them at 175, 150 and $85 an hour. I want to know what they actually were paid.

A: I'd have to go back, I guess, and look at their taxes and figure it out, I mean, you know, what it comes out ---

Q: You don't know?

A: Huh?

Q: You don't know?

A: I've got a good -- I mean, I do know. I mean, you've got a, what is it, SECA, FICA, FUTA and you've got your, you know, unemployment, you've got your workers' comp. I mean, if you're willing to figure it all out ...

Q: Sure.

A: But that's not what I do, to answer that question, you know.

Q: Can you ballpark what their income would have ---

A: No, I ---

MR. LARK: Object. This is ---

A: I mean why ---

(Multiple Voices at Once)

A: Why are we asking that question?

THE COURT: He's got a right to ask the question.

A: My answer is I don't know then.

THE COURT: Mr. Corbett's answer is he doesn't know.

A: Yeah.

Q: Is that true for all these laborers as well that are listed on this bill?

A: That I don't know how much they get paid?

Q: That's correct.

A: I can only tell you what they get paid on -- what it says on this bill.

Q: Yeah. I'm not asking what you charged for their labor. You charge more for their labor than they actually put in their pocket; did you not?

A: You have to.

Q: So, the answer's yes?

A: Because you have to pay taxes.

Q: So, the answer's yes?

A: Yes, you have to. You have to pay taxes and all the, you know, requirements. I have to pay on workers' comp. You have to charge more than, you know, what it is.

Q: Okay. Is the $50 an hour more than what it costs Wayne's to pay these people as well as their benefits?

A: Well, our normal labor rate's $89 and something, so I would say I lost money on that.

Q: So, you're contending -- so, how much does an average laborer make? Make more than minimum wage?

A: About $90.

Q: $90 for ---

A: An hour is what I pay them at the shop.

Q: You are paying them $90 an hour ---

A: Well, I mean, that's what our labor charge is.

Q: That's not what I'm asking you. I'm asking what you pay the employee, not what you charge third parties for their work.

A: Do what?

Q: What you pay them.

A: Do what? Say that again.

Q: What you pay your laborers. You don't pay them $90 an hour, do you?

A: No, just -- I would probably say it's ---
Q: That would be over $3,000 a week.
A: They're probably in the range of 50 to 55 I would imagine.
Q: Dollars an hour?
A: (Nods head affirmatively).
Q: Is Mr. Rawl your accountant?
A: Mr. who?
Q: Mr. Rawl?
A: No, sir.
Q: Who's your company's accountant?
A: They're in Baltimore, Maryland.
Q: And what's their names?
A: Reed.
Q: And just so I'm real clear, your testimony is your laborers are being paid over $50 an hour for their services?
A: Uh-huh.
Q: And you are paying them $50 -- over $50 an hour for their services?
A: I think the -- I don't know how you break it down. The customer's actually paying the bill. We charge them, I mean, for the -- you know, for the repairs and what we do.
Q: Do you actually -- are these people actually

employees of Wayne's?
A: Yeah.
Q: So, you take out taxes and ---
A: Twenty-nine, there's about 29 employees.
Q: You have 29 employees. Okay.
A: Yeah, it's 29 to 31.
Q: And so, your testimony is you pay your laborers $50 an hour?
A: It depends on what the situation is, but -- and which and what employee it is.
Q: Okay. I'm talking about these laborers that you charged out at $50 an hour. Let me just make certain that you're clear. Because for a 40 hour week -- you pay somebody $50 an hour for a 40 hour week, they're making $2,000 an hour -- I mean, a week. And that means they're making $100,000 plus a year. Are you telling me these laborers make over $100,000 a year?
A: I mean, you've got different ones that do different situations in their job, but they're not -- every one of them making that, no, sir.
Q: You have employees that you pay over $100,000 a year?
A: Actually the one that we did is no longer there, not at this time.

Q: I don't have any further questions. Thank you.

MR. LARK: Briefly, Your Honor?

THE COURT: Yes, go ahead. Mr. Lark.

MR. CORBETT - REDIRECT EXAMINATION BY MR. LARK:

Q: Mr. Corbett, as to the heavy equipment, isn't it the industry customary practice that the heavy equipment is to be available until they've completed the call?

A: Yes, sir.

Q: And that means be on the scene?

A: Yes.

Q: And was there idle time to your recollection for the heavy equipment particularly in this matter?

A: There was -- there was idle time in between their load up time and the, you know, in the actual recovering of it in the end.

Q: But the equipment, because the call had needed it, needed to stay on ---

A: Yes, sir. It was waiting to be engaged. It was ---

Q: In case anything happened?

A: Yes, sir. It was waiting to be engaged. It had to be on the scene to -- you couldn't have left the trailer there and traffic -- you know,

normal traffic be flowing by.
Q: After you did leave the scene, were you -- did the equipment have to come back subsequently or, as far as your work, it was ---
A: No, we ---
Q: Basically once you cleared it, it was done?
A: It was cleared up, yes, sir. We all left the scene.
Q: And when we talked about earlier the -- what I call the tractor part of the -- front part of the unit, was taken to the Georgia side and the trailer taken to the South Carolina side, did they -- and they stayed there for some period of time, was it the -- some heavy equipment that ended up taking those two pieces somewhere?
A: Well, you had one truck, the HD 5, that was there. It was used in help remove and the -- pulling the trailer off the bridge. And then it had to go back again and re-hook to the truck again that was left at the Welcome Center. You know, so it was -- once the -- it was used to put the trailer, sliding it off and, you know, then it was sent back. And that's when it would've been on the scene

longer because of that.

MR. LARK: Your Honor, just one minute. May I look at my notes?

THE COURT: Sure.

MR. LARK: Your Honor, that's all I have.

THE COURT: All right. Mr. Corbett, you may return to your chair.

MR. CORBETT: Thank you, sir.

MR. LARK: Your Honor, I note the time. Our CPA is here and his testimony should not take particularly long, but I am at the pleasure of -- okay to go?

THE COURT: We'll go ahead and go ahead with the -- with your CPA.

MR. LARK: I'll call Mr. Bill Rawl to the stand, please.

WILLIAM RAWL, JR., having been duly sworn, testifies as follows:

COURT REPORTER: Please state your full name for the record.

THE WITNESS: William L. Rawl, Jr.

COURT REPORTER: Can you spell your last name for me?

THE WITNESS: R-A-W-L.

COURT REPORTER: Thank you.

MR. RAWL - DIRECT EXAMINATION BY MR. LARK:

Q: You may sit down, Mr. Rawl.

A: (Witness complies.)

Q: You're -- what is your occupation?

A: I'm a certified public accountant in Lexington, South Carolina.

Q: Okay. And for how long have you ...

A: I've been practicing on my own for 42 years.

Q: Okay, thanks. And what have you asked -- were asked to do in this matter?

A: Basically to quantify and explain what a code section in the IRS code is, Section 179, which allows for a direct writeoff or expense of purchased equipment?

Q: That's 26 U.S. Code Section 179.

A: Yeah.

Q: And in connection with that, did you have occasion to review 2015 returns for the sub S corporation Wayne's Automotive and the South Carolina Incident Management entity?

A: I did review those returns, yes, sir.

Q: And in connection with your review, did you show -- did you find that there was for 2015 an election of any particular assets under that section for tax purposes?

MR. LINDEMANN: Your Honor, before Mr. Rawl answers, and I apologize, I just want to state an objection. I do not know what the relevance of this testimony is. I have been trying to figure out what Section 179 has to do with any of this. And to the extent Mr. Rawl's testifying to any type of legal explanation for it, I mean, obviously, to the extent it's relevant, that's a decision for The Court to make. But, number two, I don't understand how a deduction of business expenses has any bearing, whatsoever, on the reasonableness of a charge that was made by Wayne's to Premier Transportation. Whether or not the equipment can be deducted or not, how it's deducted or not, over how much time it's deducted or whether it can be deducted in one tax year or five or ten or 20 does not impact what they can charge and what is a reasonable fee.

THE COURT: All right. My concern here, I think there were some questions asked yesterday about who owns what. And insofar as Mr. Rawl can help us understand the different entities owning different pieces of equipment, I think that is relevant to some of the issues that had

come up yesterday. I understand your concerns, making some sort of equivalency between depreciation of equipment and how you charge for it, and I think I'm going listen to him and see where -- see how that plays out for a few minutes here.

MR. LINDEMANN: That's fine, Your Honor. I just wanted to make my objection on the record.

THE COURT: I think -- I understand your objection and I think you're right. I think there's some limited purposes, Mr. Lark, for which Mr. Rawl's testimony is relevant. I'm going to give you a little leeway with that, but just make sure that insofar as he's giving us some information that's useful in this case versus come interesting side lines on the tax law.

MR. LARK: Well, Your Honor, this was, as I brought up yesterday to Your Honor, provided -- we had prepared a non-disclosure, confidentiality, non-disclosure agreement months ago and offered the redacted returns to the sub S and the Incident Management returns that Mr. Rawl reviewed. And counsel didn't even bother to sign the agreement to get such access. And so, we have proceeded as we have throughout this

case. And, you know, tried to be fair and diligent and so forth. So, you recall, I did mention that.

THE COURT: Sure.

Q: And so, Mr. --

MR. LARK: May I continue?

THE COURT: Please.

Q: Mr. Rawl, did you see whether in your 2015 return reviews some assets that were for mobile communications equipment and a converted recovery truck included in the Incident Management federal tax return at page 26 of 38?

A: I did see those. Of course they had a lot of assets in there. But any way, yes, I did see those.

Q: Okay. And we understand that this accident occurred in February of '16 and that, while there was an initial mobile communications equipment expense of $8,000 for the invoice, first invoice, that subsequently it was down to zero. Did you find any mobile communications equipment expense for Section 179 for the tax year 2015?

A: The mobile communication equipment was included in there.

Q: But the -- how about for air cushions?
A: The air cushions were in there for '16 I believe.
Q: The '16 ---
A: Wait a minute.
Q: --- return hasn't been filed yet.
A: Yeah, right. Okay.
Q: So, you're referring to the mobile communications equipment and then the truck?
A: Yeah.
Q: Looking at this settlement breakout previously with the exhibit references, Mr. Rawl, I hope you can see that, the initial invoice was the 69,000 plus, Petitioner's Exhibit 1 and 22. Then the calculation for the adjustments, Respondent's Exhibit 1 through 3, and that nets the 54,629. Then if you look at the Wayne's adjustments by comparing the settlement invoice to the initial invoice, that was the $20,384, and that's Petitioner's Exhibit 1 at 28 through 29. So, the payment that was made by settlement was 48,633.19. Do you see all that? Can you see that?
A: Yes.
Q: And then there's a footnote that talks about

what you just referenced. And ---

MR. LINDEMANN: Your Honor, I'm trying to give him some leeway, but this is not a document, as I understand, that Mr. Rawl prepared and certainly hasn't been produced ahead of time in this case.

MR. LARK: No, sir. They did not sign the confidentiality agreement that would have disclosed each of these three numbers or two numbers.

MR. LINDEMANN: All I was asked to do was -- you refused to provide the tax returns without that. I wasn't going to sign that and that's fine. But this particular document has not been produced. I'm not talking about the tax returns. If Mr. Rawl prepared this, that'd be one thing. But I have a feeling that Mr. Lark prepared this and he's up here testifying rather than the witness is testifying.

THE COURT: I understand that. Mr. Lark, you presented these numbers yesterday ---

MR. LARK: Before ---

THE COURT: --- and before you started second guessing yourself and getting them messed up. I think we know what those numbers are.

MR. LARK: Right.

THE COURT: I think we know there's some vague correlation between what was actually paid and what you've presented here.

MR. LARK: These are the -- I'm sorry.

THE COURT: You've got a question to him, I think, that has to do with the air cushions, the airbags, whatever you want to call them.

MR. LARK: That is one question. The others had to do with the other things that are ---

THE COURT: And insofar as you're using this as -- not as an exhibit, but as a prompt for the question, I will let you do it, but make sure you ask a question that he can answer.

MR. LARK: Yes, sir. Thank you. It's my intention. And I just created this this morning based upon what I knew to see in that page of the return.

Q: Mr. Rawl, if it would help you, I can provide this Incident Management 2015 return. My question is, do you recall that there -- whether there was mobile equipment expense for 179 for the Incident Management for 2015 of $4,850?

A: Actually I don't recall. I looked through the returns. Matter of fact, I don't know that I

had a Incident Management return.

MR. LARK: May I?

A: There was another corporation there that I looked at?

Q: Wayne's Automotive.

A: Yeah.

Q: Yes. And then there was the Incident Management return.

A: Okay. Well, I missed the Incident ---

Q: If I can just show you ---

A: That's fine, yeah.

Q: --- witnesses. He didn't bring a set of the returns that he was provided.

MR. LARK: May I?

THE COURT: Go ahead.

Q: Mr. Rawl, I'm handing you 2015 witness -- Wayne's Automotive return and the Incident Management return.

A: Uh-huh.

Q: And there approximately at 28, 26 of 38, that's an unmarked set, there is a schedule for -- that you're familiar with that we're -- 179 expenses would show up, correct? There should be a schedule in there that you're familiar with?

A: I'm looking.

THE WITNESS: Bear with me a second, Your Honor.

A: Okay. On the Incident Management tax return, I do see Section 179 deduction for about $11,300, round numbers.

Q: Do you see a specific number broken out that's consistent with the numbers on this thing on the overhead or can you just otherwise read the number that you're seeing?

A: I'm reading it off the schedule and the tax return, Mr. Lark.

Q: Okay.

A: Okay. $11,221 represents mobile communication equipment for $4,850 and utility trailer for $1,855 and a 1978 Ford 800 fire truck and that was for $4516.

Q: Are those numbers consistent with what I have up there on the screen in the notation? The --

-

A: Yes.

Q: --- amount for the mobile equipment?

A: It appears so.

Q: And the -- I'm advised the utility trailer was not used, so you mentioned an amount for that, too, right, just that was taken by the company?

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A: Right.
Q: Okay. And then did you also review the corporate -- sub S corporate returns for Wayne's?
A: Yes.
Q: And do you show that Mr. Corbett is a shareholder, the sole shareholder of that?
A: Yes.
Q: And did you check further to see in that return that whether the corporate tax return coupled with a third return, did you check -- have you checked the joint return of Mr. and Ms. Corbett, whether or not those expenses flowed back through essentially to Mr. and Ms. Corbett in their personal ---
A: They did flow back through, yes.
Q: So, you checked that for the 2015 time frame?
A: Uh-huh (affirmative response).
Q: Now, there's been some discussion about costs and when -- under the schedule, 2016 rotation rate schedule. Have you seen that, do you recall?
A: I've seen it. I didn't study it.
Q: Okay. Well, is it -- do you have an understanding about how a tax payer may apply

Section 26 U.S. Code Section 179 to have expensed the entire amounts of those two items that were used for this matter in a single tax year?

A: Yes.

Q: And that was, in fact, what they did?

A: Yes.

Q: So, if that's their cost, could it not be flowed -- or was it -- could it not be flowed into use in terms of an invoice as the cost of something, the asset?

A: It could.

MR. LINDEMANN: Your Honor, I object to that. That question, lack of foundation. I don't think he's established that he has the necessary expertise to actually provide that opinion. Plus he indicated just now that it could. He didn't give that opinion pursuant to the appropriate standard, the most probably standard.

THE COURT: Sustained.

MR. LINDEMANN: Thank you.

Q: You've been in good standing as a certified public accountant since you began practice; is that right?

A: Yeah.

MR. LARK: We offer the witness as an expert in accounting matters in South Carolina.

MR. LINDEMANN: I don't have a problem with him being an expert in accounting. But an expert in determining what is a reasonable fee to be charged for towing does not fall within him being an expert ---

MR. LARK: If I asked that question that way, I wasn't intending to ask it that way, Your Honor. I'm glad to withdraw and rephrase just to move on here.

THE COURT: I think we're -- here's the issue here, that you can talk about what the machinery costs, you can talk about how it's depreciated. But if you can't get to a correlation between that and how it's used and billed, Mr. Rawl is of no use to you.

MR. LARK: Right. Well, don't take that personally.

THE COURT: Nope, not personally.

THE WITNESS: No. I've been in this seat too many times to take it personally.

Q: You've had cases before?

A: Yeah.

Q: Successful cases?

A: Yes, sir.
Q: Is there a correlation if a tax payer has the ability to expense -- this is an expense, not a depreciation of an asset, correct?
A: Most of the time it's referred to as an expense, yes.
Q: And an expense, and I'm not a CPA, means one can put it on one tax return, correct?
A: Yes.
Q: For a given point in time?
A: Yes.
Q: And is there any reason, although you're not their tax preparer, that they could not, in fact, have included these items -- the costs, the expenses for these items, in invoices if they wanted to under Section 179?
A: If they wanted to, I guess they could.
Q: And you followed through to see, not only the two returns that you have there, but the third return of the joint return ---
A: Right.
Q: --- for 2015?
A: That's correct.
Q: Thank you. That's all I have.

MR. RAWL - CROSS-EXAMINATION BY MR. LINDEMANN:

Q: Real quickly, Mr. Rawl.
A: Yes, sir.
Q: As I understand the IRS or the United States Congress adopted Section 179 in order to allow certain businesses to be able to, in essence, depreciate and expense all at once in one year rather than over time, correct?
A: That's true.
Q: And it was done in order to encourage small businesses to make purchases, correct?
A: That's true.
Q: Okay. So, what we're really talking about here is they're depreciating an expense in one year rather than over five or ten years, correct?
A: That's true.
Q: And they have that choice, they could either do it and expense it entirely in one year or they could've done it over time.
A: That's true.
Q: Okay. So, what we're talking about here is the mobile equipment. And I'm sorry, I didn't follow. What return was that on? Was that on Wayne's return or was it on South Carolina -- what's the rest of the
MR. LARK: Incident Management.

Q: Incident Management. Which return was that?
A: Honestly I don't remember. I have them both here and we can find it.
Q: If you don't mind, real quickly, just letting us know who was actually claiming that depreciation ---
A: Okay.
Q: --- of that expense.
A: That was actually Wayne's Automotive.
Q: Okay. And how about for the fire truck, which I understand to be the response unit.
MR. LINDEMANN: Is that the first truck, Mr. Lark?
MR. LARK: Yes.
Q: Okay. The fire truck that was listed, is that also on Wayne's return?
A: I'm going to have to correct myself. On the three items that we were talking about, four items, it was all on Incident Management.
Q: Okay. So, the mobile communications equipment was on Incident Management?
A: Right.
Q: And the amount that was expensed was $4,850?
A: That's correct.
Q: And was it entirely expensed?
A: Yes.

Q: So, that would be the entire cost of that equipment?
A: That's right.
Q: And then the other item we care about is the fire truck, or also called the response unit, is that also on the South Carolina ---
MR. LARK: Incident Management.
Q: --- Incident Management? I apologize.
A: That's correct.
Q: And how much was that expense?
A: Around $4,000, 4500.
Q: I had written down 4,516; is that right?
A: That's correct.
Q: Okay. So, that would've been the amount that was paid by South Carolina Incident Management for that piece of equipment?
A: That's correct.
Q: Because it was expensed at 100 percent?
A: That's correct.
Q: And that was all done on the 2015 tax return?
A: That's correct.
Q: So, that means it was purchased during the 2015 -- or 2015 tax year?
A: That would -- that's what that would mean.
Q: Mr. Rawl, you're not the actual CPAs for these

two businesses, are you?

A: No.

Q: You don't have any information, do you, about how much they pay their employees?

A: No.

Q: All right. Thank you, sir.

MR. LARK: No re-direct, Your Honor.

THE COURT: Mr. Rawl, thank you for being here.

THE WITNESS: Thank you.

MR. LARK: Can I make a little levity, a little joke about this fellow? He's recovering from quadruple bypass surgery. He and his wife went to Monetta just two weeks ago and brought back these great peaches. And so, when you said I could -- he could be of no use to me, you know ---

THE COURT: Oh, I forgot. You should've told me about the peaches.

THE COURT: Okay. Let's -- we're somewhere in the neighborhood of 3:30. Let's take about 10 minutes here for people to stretch and do whatever nature requires and be back here at, what is it, 3:40. At 3:40 roughly.

MR. LARK: Okay.

THE COURT: And, Mr. Lark, you're going to have ---

MR. LARK: Two more witnesses.

THE COURT: Two more witnesses. All right.

MR. LINDEMANN: Thank you, Your Honor.

MR. LARK: Mr. Busby and Ms. Rochester.

THE COURT: All right. We'll be at ease for ten minutes.

(Off the Record)

THE COURT: We're back on the record, case number 16-ALJ-30-0410. Mr. Lark?

MR. LARK: Yes, Your Honor. We call Mr. Doug Busbee to the stand.

CARL DOUGLAS BUSBEE, having been duly sworn, testifies as follows:

COURT REPORTER: Thank you. Please state your full name for the record.

THE WITNESS: My full name is Carl Douglas Busbee.

COURT REPORTER: And I go by Doug.

MR. LINDEMANN: Your Honor, I see that this witness is carrying some documents up to the stand. And I'm not trying to be difficult, but I don't believe he's entitled to refer to anything unless he needs his recollection refreshed.

THE WITNESS: Okay. You want to hold them, sir?

THE COURT: No, you can give them -- put them back on Mr. Lark's table there.

MR. LINDEMANN: Thank you.

THE COURT: If it turns out that you need your recollection refreshed, we'll have them available.

THE WITNESS: Yes, sir.

MR. BUSBEE - DIRECT EXAMINATION BY MR. LARK:

Q: All right. Please state your name and address and relevant experience.

A: My name is Doug Busbee. My home address is 203 Holiness Church Road, Wagener, South Carolina. I've been employed in the towing and salvage industry since I was 15 years old. And I've been in the Class A towing since that time. I started on my own in 1988. I'm the owner and operator of Busbee Auto Incorporated. We own Busbee Truck Parts. And we own -- I am the owner and operator of Busbee Truck Parts. And we have 24 employees. It's a salvage yard for big trucks currently.

Q: Okay. And do you participate, I mean, you said this, as a Class C on the Class C rotation list and you've been doing that for how long, how many years?

A: I'm on the Class C rotation. I came on in 2008. And it is, I learned very quickly, a

very dangerous. And I was totally unfamiliar with the Class C and the rotation and the way it worked as far as billing and whatnot. But, yes, I have. I've been on since 2007.

Q: And have you noticed any changes in the development of the respective schedules, and say from 2015 through the 2017 time frame? And If so ...

A: When I first ---

MR. LINDEMANN: Your Honor, I state an objection on the basis of relevance. This litigation involves a specific incident that happened in 2016 pursuant to a 2016 fee schedule. Anything that happened in 2015 is not relevant. Anything that was agreed to in 2017 is not relevant, Your Honor.

MR. LARK: Your Honor, may I? I'd like to opposite the -- propose to present the witness. For example, the 2016 fee schedule, which is already in -- part of in the exhibits. And then I would propose that, if in the 2017 wrecker rotation fee schedule, because it was also created in 2016 for 2017. The fact that these schedules are relevant to understanding about rates.

THE COURT: I think that -- we'll let him talk about the 2016 schedule. And what he knows about how it operates and he can tell us. But I'm going to sustain your objection in part ---

MR. LINDEMANN: Thank you, Your Honor.

THE COURT: --- to these other ---

MR. LINDEMANN: I would also note, just so the record's clear too, I mean, I'm not sure what Mr. Busbee -- I mean, it's very difficult to tell what he was identified to do. I don't know if he's here to offer expert opinions. He was never identified as an expert. I don't believe he has an firs-hand knowledge of this. Busbee is a different -- he runs a different wrecking service, didn't have anything to do with this particular incident. And then to the extent, it may be relevant to testify as to an understanding of the 2016 fee schedule, the only thing that would be relevant would be the Petitioner's understanding or how they apply, not one of their competitors or somebody else in the industry.

THE WITNESS: You know I left one thing out of my -- I am the legislative liaison for the South Carolina Tow Association also.

MR. LINDEMANN: And still that does -- they're not a party in this case. I don't know how that ---

THE COURT: I think the -- I think his testimony might be relevant insofar as if it helps us understand what a reasonable fee is. But his knowledge of how Wayne's operates, his knowledge of this particular accident, I agree that we don't know that he knows anything about that. So, if he can, insofar as he can answer questions that go there or that help us understand what reasonable fees are, I'm going to allow him to testify. But I think, I think you're -- again, I'm going to sustain your objection in part, because I want to limit the scope of what he's here to talk about.

MR. LINDEMANN: Thank you, Your Honor.

Q: Mr. Busbee, this has been admitted. The 2016 wrecker schedule is part of Petitioner's Exhibit 1. And it's page numbers 18 and 19 and 20, I believe. Does this look like the 2016 schedule?

A: Yes, sir. This is the 2016 schedule. And this is the year --

THE WITNESS: And I need to give you a little history, Judge. If you'll allow me a little

leeway?

THE COURT: Just a little.

THE WITNESS: Yes, sir. I came on in 20 -- I came on the big rotation in 2007. And it was always a gray area, what you could charge for above and beyond the set rotation -- I mean, the set big wrecker fee. In this year it's 436 is what you can charge for it. It was always a gray area. And I moved along and up into 2013 and 2014 and I started getting -- and it's highly unusual for us to work more than one or two major wrecks a year. We're in a very rural area. We don't get many calls. The only reason I can even afford to keep the big wrecker is because I have a salvage yard and we work with big trucks. So, it's -- when we get one, you know, I'm not real familiar -- even now, I don't feel as versed writing bills as without guidance. And I'm going to get to that in just a second. But in 2013, I got a phone call after doing a wreck for Mr. Bob Watson. And he -- it was 2013, 2014, I don't remember exact. But his contention was, Mr. Busbee, you've ---

MR. LINDEMANN: That's hearsay. Mr. Watson's not a

party in this case.

THE WITNESS: Mr. Watson gave testimony yesterday.

THE COURT: He did. And -- but you're talking about ---

THE WITNESS: It's not hearsay.

THE COURT: We're not here to talk about Mr. Watson or Mr. Watson's behavior. So, insofar as that's what you're going to talk about, I'm not going to allow it.

THE WITNESS: All right, sir. But, Your Honor.

THE COURT: Go back to talking about the 2016 schedules.

THE WITNESS: I'm trying to say it to the atmosphere that the towers were made to work under. We were forced, we were put in an atmosphere where we had to -- we broke the law if we wrote anything -- if we charged for anything above the set rate. We were put in this atmosphere. And Bob Watson, out of his own mouth, right here yesterday, testified he would have received six to eight thousand for the tow ---

MR. LINDEMANN: Same objection, Your Honor. And any type of dealings that Mr. Busbee has had with Mr. Watson, I don't see how that's relevant whatsoever.

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THE COURT: I agree with you.

MR. LARK: Your Honor, is it not -- impeaching the credibility of Bob Watson is certain -- I would think certainly a basic issue that the litigant has ---

THE COURT: What he's going tell me -- and I'm anticipating here. What he's going to tell me is that Mr. Watson's behavior in this case was like his behavior in some other case. That isn't helping me to understand whether these bills were reasonable. And if he can help me understand that, then he can help me with this case. If he can't tell me that ---

THE WITNESS: I can help you.

THE COURT: He says he can help me, so ---

THE WITNESS: Yes, sir.

THE COURT: Get to some questions that pertain to this matter.

Q: Help us, Mr. Busbee.

THE COURT: You got to ask him a better question than that, but that's not a bad start.

THE WITNESS: Your Honor, what I'm currently looking at is the 2016 rate schedule. And in 2016 we had gone through 2015 in which several cases had gone on. And it resulted in us not being

able to charge anything above the set rate of $436 per hour, which is unbelievably crazy. You cannot survive. You will not survive at that rate. So, in 2017 it was a total turnabout. After several of these cases had got ---

MR. LINDEMANN: Your Honor's already ruled on that.

THE COURT: I've already -- yeah. We're going to talk about 2016 and we can talk about fees, what you think are reasonable. We're not going to talk about what happened in 2015. We're not going to talk about a reaction in 2017.

THE WITNESS: The Department of Highway Patrol -- well, okay. But I can -- in 2016 what is going on is that the Department has ruled that it is illegal because of they've had complaints from Bob Watson. And they have ruled it's illegal. And if you'll read this paragraph in -- these two paragraphs, you will see their rulings were very strict. And it made it impossible for us to -- anything above -- anything -- you could not charge for your own equipment. Even if you had a backhoe or a Landoll or whatever you needed to work a wreck, you couldn't charge for it. And it made it almost unbearable. And

myself, as legislative liaison, I knew some people in the legislature and we finally got the rates straighten out. And they, since the Highway Patrol ---

MR. LINDEMANN: Your Honor, I object and move to strike that. That's something that's subsequent to this. And however his friends in the legislature may have said or not said, that's hearsay and it's also absolutely not relevant.

THE WITNESS: I'm trying to shed some light why this case got pushed so far, Your Honor.

THE COURT: Well, the fact is, it did. Why it did, how it did is not before me.

THE WITNESS: Yes, sir. I understand, sir.

THE COURT: And Mr. Lindemann is correct. We want to -- we'll keep this focused on the rates in 2016. If what you're telling me is that the 436 hourly rate is all you could ever bill for any accident of this scope, that ---

THE WITNESS: That's what was -- that's how it was read in 2016. But it went about face. It turned 180 degrees in 2017.

THE COURT: Okay.

THE WITNESS: Okay.

MR. LINDEMANN: Your Honor, again ...

THE COURT: Stop with 2016.

THE WITNESS: Yes, sir.

THE COURT: Mr. Lark, try for a question.

Q: Do you have authority on the list for Class A, B, and C?

A: I do.

Q: We've been talking in ---

A: I do.

Q: A and B are in lighter weight categories, correct?

A: And I never -- in 30 years, 35 years of towing, I don't know if I ever had a complaint under a Class A.

Q: And -- I'm sorry.

A: Go ahead.

Q: Does that -- what does that mean? What class did you ---

A: Class A is the small -- is the small -- small and automobiles and stuff like that. But once you get into bigger stuff, it requires some help. It requires some help. And you've got to be able to charge for additional fees. They're expensive. These wreckers are expensive. They're easily a half million

dollars, so it takes some -- you've got to be able to charge for it.

Q: In August of 2016, did the Department solicit to the Association members projected costs to be added to the '16 schedule?

A: Yes.

MR. LINDEMANN: Your Honor, you've already ruled on that.

THE COURT: No, he's talking about the '16 schedule.

MR. LINDEMANN: What he's talking about is that at the end of 2016 they solicited information in order to put together the schedule for 2017. This incident happened in February of 2016. But he's describing about occurring after that fact. And Mr. Lark knows that.

THE WITNESS: Your Honor, I wouldn't ---

THE COURT: Let me ---

THE WITNESS: Yes, sir.

THE COURT: Tell me again what your question is?

MR. LARK: I asked him that if -- and I see Trooper Hughes here. I'd be glad to call him as a witness since he's here, since I deposed him on this area. But he's my -- Mr. Busbee is the client, so. I'd ask the Court Reporter to read that back just so I don't make a mistake.

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AUDIO RECORDING: (Mr. Lark) In August of 2016, did the Department solicit to the Association members projected costs to be added to the '16 schedule? (The Witness) Yes. (Mr. Lindemann) Your Honor, you've already ruled ...

THE COURT: Okay. It seems like he's asking for changes in the 2016 schedule.

MR. LARK: Yes, sir. It's an annual process, Your Honor.

THE COURT: No. Wait a minute, now. As an annual process he's asking in 2016 for changes for 2017.

MR. LINDEMANN: Correct.

THE COURT: But if he asking for changes during 2016, I think that's marginally irrelevant.

MR. LARK: I would say the Highway Patrol has historically required -- comments had to be received by August 31st, okay.

THE COURT: For 2017.

MR. LARK: Yes, but ---

THE COURT: That's beyond -- that's beyond what I want to hear.

MR. LARK: But the point is that there could have been a --there's nothing that I've seen to preclude a modification for the remaining

months of 2016 from solicitation of some comments. But I represent to you, Captain Hughes, who was involved with the creation and recommendation for '16 and '17, acknowledged in his deposition that there was a misunderstanding among the towers who were participating as to the import of this no fee set, okay, no fee set. Then you say, but then they start talking about a cost or an invoice from sublet or contracted folks. And then at the same time the inconsistency is -- was apparent. And Captain Hughes acknowledged that. I know he's not been on the stand, but it's his -- I've got his deposition here.

MR. LINDEMANN: Your Honor, number one, I disagree with his characterization of the testimony. Number two, this incident happened on February 9, 2016. To the extent that -- when the Department solicits rate information from towers towards the end of 2016, it's to develop a schedule for the next year.

THE COURT: Yeah, I agree.

MR. LINDEMANN: And so, anything that happened in 2016 is not relevant. The schedule was set for 2016 based upon rate information received the

previous year. And that's the document that's in the record. And that is the guiding document for this particular bill. So, any changes that were made, any considerations that were made as far as rates after that, I mean, Your Honor's already ruled on that.

MR. LARK: Could I give you an example, just perhaps interest you in applying your ruling?

THE COURT: He's already said that the 2016 rates were inadequate.

MR. LARK: Mr. Busbee?

THE COURT: That's what he said. And I don't think he needs -- I just don't -- I don't know what else he can tell me about fixing rates.

MR. LARK: May I?

THE COURT: I don't -- well, we're here on -- as I've said before. We're here on one accident that generated a series of bills and the question of whether the charges on those bills are reasonable.

MR. LARK: Yes.

THE COURT: Insofar as he can help us with that issue, you can ask him all the questions you want. But when you start going into rate fixing and future years and past years, we're

not here to tell the legislature what to do. That may be his job in another setting, but it's not my job.

MR. LARK: We heard -- okay.

THE WITNESS: There was a meeting ---

Q: I'll ask this because of questions to you. Have you been present during these proceedings since this started Monday?

A: Yes, sir. I have.

Q: And did you hear testimony from Lieutenant King yesterday in his, regarding his proposed reasonable rates to offset the very unreasonable rates?

MR. LINDEMANN: Your Honor, you can't pit one witness against another and that's what he's asking him to do here.

THE COURT: Well, let's -- let me hear the question. Finish the question.

Q: Were you here when I ---

A: Yes, sir.

Q: And without objection, his internal memo from both sides of March the 4th, 2016 went into evidence. Do you know where he specified the specific, what he thought were reasonable rates in 2016?

A: Yes, sir.
Q: Okay. And do you know whether there was any support in the schedule itself of 2016 to support his supposed reasonable rates?
A: In 2016 there was no special operations allowed. There was, you supposedly did not, cannot charge for any special operations when you used your own equipment. And this was the policy that we were operating under. And I had never been a member of the Towing Association and I joined the Towing Association to try to learn what was going on. And what I found was, after doing some review of the regulations, that an advisory committee was called for in 2004 to be formed.

MR. LINDEMANN: Your Honor, ---

THE WITNESS: We're talking about rates here.

THE COURT: Go ahead with your objections.

MR. LINDEMANN: Your Honor, my objection is you've already ruled on the advisory committee issues. This is not relevant to what was going on in 2016, what that fee agreement was, and what it says, and how it would be applied to this particular case. He keeps wanting to go back in time or go into the future. And this case

is about 2016 and that fee agreement that Wayne's agreed to. I mean, it's signed, it's in the record, they agreed to it. And the issue boils down to, as Your Honor has indicated, whether or not the charges they made on that particular day were reasonable, number one. And number two, whether they did or did not violate state statute by refusing to release the cargo. Those are the ultimate issues that are before this Court.

THE WITNESS: For every other year -- can I add, Your Honor, for every other year we had been able to charge for these extra ...

THE COURT: Mr. Busbee.

THE WITNESS: Yes, sir.

THE COURT: Answer questions from Mr. Lark.

THE WITNESS: Yes, sir.

THE COURT: Mr. Lark, ask him questions that have to do with the issues that we're here for.

Q: Mr. Busbee, under the 2016 wrecker schedule, as the Judge has indicated we're looking at, do you know -- does that provide, Lieutenant King's numbers for reasonable hourly rates, any support?

A: No, sir, it does not. There's nothing on it.

I have it right here. There's nothing on it.

Q: Mr. Busbee, in the regulation of Section F -- I'm sorry, D(5). I would like to show your -- direct your attention to this Section (5) regarding advisory. Would you please read that into the record?

MR. LINDEMANN: Your Honor, same objection as before. I think we've been through this advisory committee so many times.

MR. LARK: He's acknowledged no advisory committee exists. I acknowledge that. But the regulation, he has -- I respectfully request that he be allowed to read the section in there and ask what his understanding of that is, how it operates or should.

MR. LINDEMANN: That's a legal determination.

THE COURT: Yeah. And you're asking him to tell us how they should operate. I can't hear him on that.

MR. LARK: Okay.

Q: Mr. Busbee ---

THE COURT: That objection's sustained.

Q: Mr. Busbee, you agree there's no advisory committee in existence?

A: No, sir.

THE COURT: We've all agreed to that, sir.

MR. LARK: Okay.

Q: Ever?

A: Ever. If there had been one formed, I can't help but believe we wouldn't be here. It calls for a tow person to be on the committee, a tow specialist.

Q: Mr. Busbee, has the Department's construction of its 2016 rate schedule caused problems with the towers in South Carolina?

A: Yes, sir.

Q: What are they?

A: Yes, sir.

MR. LINDEMANN: Your Honor, again, to the extent it has to do with anybody other than this particular Petitioner is totally irrelevant in how it affects other towers.

MR. LARK: Your Honor, this is the Department of Public Safety. Its primary function is to promote the safety of the motoring population. And as the manual, that everything supposedly of supporting their position, is suppose to be a priority, if not, the priority. And how the lawyer can stand there and say it's not relevant, whether what's going on is adversely

affecting secondary accidents, et cetera, is questionable.

THE COURT: Mr. Lark, I really do understand and sympathize with your concerns. But we're here, one case, one accident, one bill or bills, and the consequences for this company as a result. As Mr. Lindemann reminded me, we also have an issue with the cargo release. The Department of Public Safety is not on trial here. And I'm sure every year, Mr. Gore, you get a chance to go over to the general assembly and talk about your Department. Don't get up and talk. But you get the opportunity to go over and talk about your Department and people, like Mr. Busbee, and perhaps Mr. Corbett ---

THE WITNESS: Nobody talks to us.

THE COURT: --- you'd have a chance to go over there and talk to them. And if you got a -- belong to a towing association, you got plenty of chances to go and talk to them, one-on-one if not in a group. But that's not what's before me in this hearing.

MR. LARK: If a regulation has been misapplied by use of, what I refer to consistently, as we did before the Department, of binding norms

creating -- combining things like a regulation that says only one receipt into merging or creating a schedule for 2016 Regs, which requires additional receipts, that is a binding norm in my -- you know, my position, which affects thereby the rates and the reasonableness thereof. And ---

THE COURT: If you want to ask him questions about what rates he charges and what rates he knows other people charge ---

MR. LARK: Right.

THE COURT: --- you can ask him those questions. We might even let him answer.

MR. LARK: Very well. I'll proceed.

Q: Mr. Busbee.

A: Yes, sir.

Q: Do you know how much you charge for an additional wrecker rate fee basis?

A: How much we charge an hour in 2016?

THE COURT: In 2016.

A: In 2016. In 2016 it was $436 per hour for a Class C wrecker and an operator.

Q: What about a dump truck or dump trailer or a drop dumpster?

A: In those, I can't answer specifically. But I

can give you some round abouts. A landoll is around $350 an hour, which is commonly used on -- if you want to know about additional labor, the average laborer would make around $85 is what I would bill out at. And a mechanic would be around $125 per hour.

Q: Is a mechanic the same thing as specialized labor?

A: Yes, sir.

Q: What about, I may have asked you this, a rotation crane, rotator crane or equivalent? Did I ask you about that?

A: I don't have one, sir. The only thing I've got is a heavy-duty wrecker.

Q: Truck trailer, truck tractor with a box trailer?

A: Would be approximately $300 an hour.

Q: Truck tractor with a flat trailer or equivalent?

A: That would be a landoll. It would be about $350.

Q: Truck tractor -- I'm sorry. Skid steer or equivalent?

A: Skid steer would probably run about a $150 per hour.

Q: Forklift or equivalent?
A: Now, speaking of equipment that I own. That I own.
THE COURT: And that's appropriate.
THE WITNESS: Yes, sir.
Q: Forklift or equivalent?
A: A forklift would bill out probably -- we probably billed out in 2016 for $150 per hour.
Q: A backhoe or equivalent?
A: Backhoe would probably be -- probably be around 175 to $200 per hour.
Q: Service truck with tools and equipment?
A: Service truck, and again, I don't have our current rate schedule, but I would say around 250.
Q: And tower light system?
A: I do have a light system, would run -- I think we're currently billing it at $125 per hour.
Q: Complete airbag unit?
A: I don't have airbags.
Q: Additional labor that's general?
A: General labor bills out at $85 per hour.
Q: And then I think you hit specialized, did you?
A: Special items is 125.
Q: Okay. Do you plan to continue in the business

and on the rotation list?

A: I hope too, yes, sir.

Q: In 2016 how was that for you, Busbee Auto, for towing Class C tows?

A: Very factful, we did not have -- I don't think we had but one or two calls all year. And I'm thankful, because I couldn't have made any money.

MR. LINDEMANN: Your Honor, objection to his subjective thoughts about ---

THE WITNESS: They're not subjective, Your Honor, it's the truth.

THE COURT: Well, those are his thoughts. He can tell us what he thought.

MR. LINDEMANN: Thank you, Your Honor.

THE COURT: And we can take it for what it's worth, I guess.

THE WITNESS: Yes, sir.

MR. LARK: May I have just a moment, Your Honor, to confer? That's all I have, Your Honor.

MR. LINDEMANN: I have no questions for Mr. Busbee.

THE COURT: Mr. Busbee, thank you, sir. Sorry we gave you so much trouble.

THE WITNESS: No problem. Thank you, sir.

MR. LARK: I'll be calling Ms. Gay Rochester to the

stand.

MARTHA GAYNELL ROCHESTER, having been duly sworn, testifies as follows:

COURT REPORTER: Please state your full name for the record.

THE WITNESS: Martha Gaynell Rochester.

COURT REPORTER: Spell your middle name for me?

THE WITNESS: G-A-Y-N-E-L-L.

MS. ROCHESTER - DIRECT EXAMINATION BY MR. LARK:

Q: Ms. Rochester, could you provide us with your business connections and relations and reasons for being here.

A: I have -- operate many areas of business. I have owned and operated a tow company specializing in heavy duty in North Carolina for 37 years. I'm also a transportation management specialist in the consulting field for 28 years, specifically -- in specific regard to transportation management and safety, towing and regulatory. I am an owner of Middle Ground Resolutions, which does invoice billing review for transportation, towing, and insurance entities. I am currently and have for the last seven years since 2010 built a network called, INA Towing Network. And under

that I'm now the CEO and shareholder. And in that regard, we service 2,862 fleets at present nationwide for emergency roadside and towing logistics, including American Red Cross, Maryland, the State of Maryland, Virginia DOT. We also serve as an emergency response center, disaster relief center and our Florence, Kentucky call center. And I manage all of those day-to-day operations with regard for everything from a simple roadside event to a major catastrophic event, including commercial motor vehicle crashes or as we call CMVs.

Q: I'm putting on the screen your -- the summary of opinion that you've provided to Respondent and ask whether you would -- if you don't mind, let's just start with one and go one through five in these areas. First equates to fair and compensatory value of rates charged.

A: This is my summary and these are the areas that I will be able to testify to at this hearing and have knowledge -- a vast amount of knowledge as to value of rates charged not just in the US, but in Canada as well as in South Carolina.

Q: Are you in a position to proceed concerning

that area?

A: Yes, I am.

Q: Go ahead.

A: If we specifically want to talk about this invoice, I can address that. But I can tell you that I have compiled and -- a huge directory of rates, again throughout the US and Canada for all classes of service and know what the prevailing rates are for anything from manual labor, track hoes, backhoes, skid steers, rotators, all of that equipment because we -- one of the promises that we make and commitments that we make is to audit the invoices that are presented to us on an everyday value for fair value that are submitted. Now, this is also involves non-consent towing versus consent towing. We compile under a very extensive directory on both. I would also like to add that I have served recently to a Kentucky municipality entity to help them write and develop a rotation policy. And it did include a rate structure for all classes of service.

Q: In reviewing the 2016 South Carolina rotation rate schedule, do you see a range of values for

services identified by Mr. Busbee just a minute ago?

A: In the 2016 rate schedule it only lists the rates per class of service for, essentially, a one-man-one-truck rate. I see nothing listed in the 2016 rates, which is very concerning to me that ---

MR. LINDEMANN: Your Honor, let me just object. I'm sorry to interrupt Ms. Rochester. He hasn't even presented this witness as an expert. I've been giving her some leeway laying out her credentials, but I don't even know the area that he's presented her, if he intends to present her as an expert, none of that has been done. Before she starts issuing opinions, I'd like to know where this is going.

THE COURT: All right.

MR. LARK: Well, I was going to ask her for the summary from each of the five areas and then move for admission so they won't say I hadn't laid a proper foundation for her expertise. But I'm willing, I'll just go ahead and ask her the basic questions. And then if they want to object, we'll just do it that way.

THE COURT: Okay.

Q: Ms. Rochester, have you been qualified as an expert witness in other jurisdictions?
A: I have.
Q: How many and with regard to what?
A: I've been qualified in the state of Tennessee, Pennsylvania, North Carolina as an expert witness.
Q: Okay. And in what -- expert regarding what?
A: The field was involved in both the towing and recovery rates and proficiency of service and necessary equipment to complete the scene in a practical order.
MR. LARK: We move Ms. Rochester as a expert witness in towing, regulatory and regulated matters concerning at least the five areas that she's provided a summary of opinion for, Your Honor.
MR. LINDEMANN: Your Honor, I don't totally understand exactly what that means when he throws in the word regulatory. I don't believe that she is qualified under South Carolina law to testify as to certainly interpretations of South Carolina regulations. Regulations are the equivalent of laws in South Carolina. We've got very clear South Carolina Supreme Court case law. And I've got it with me, I'd

be happy to hand it up to you. I've briefed those issues several times in supreme court. That judges are the determination -- determinors of the law and not witnesses. Primary case involved actually Professor Freeman of all people, who nobody questions his ability to know the law, but the Supreme Court concluded that him offering expert opinions on the law was not appropriate. So, I don't -- I can't agree to this witness testifying as to anything regulatory or interpreting South Carolina law. That's your job to do. Number two, I don't understand or haven't heard anything in the voir dire that would suggest that she has any expertise in determining reasonable rates in South Carolina. As I understand it, she's got this organization nationwide. She's located -- I'm not sure they're in Kentucky or North Carolina or both. But I don't know that she has the expertise to be able to offer expert opinions on reasonable rates in South Carolina. As far as proficiency of service, I don't know if that was included in Mr. Lark's request, again, I have objections as to how she will offer opinions on that. She

was not on the scene, none of that foundation has been laid, how she can even develop those types of opinions. But -- so, those are my basic objections.

MR. LARK: May I just say, my background from 39 years of practice includes a long, lengthy, and mostly arduous practice before, particularly the Public Service Commission on behalf of the public and the insurance industries typically opposing rate increases. And my use of the term regulatory includes things like rate methodologies, accounting adjustments, rate of return, rate of return theory, methodologies. These would be consistent in my description of them with my question to Ms. Rochester today. And would asked, it's not really leeway, it's just to proceed ---

THE COURT: Okay. As I understand it -- as I understand it from what you've just said, you're not asking her to tell me what the law is.

MR. LARK: Correct.

THE COURT: You're asking her to provide her insight into how things work out on the road, so to speak. In this case, off the road.

MR. LARK: On the bridge.

THE COURT: But insofar, Ms. Rochester, as you can tell us things of that sort. The only question I would ask, in terms of qualifying you as an expert, is what do you know about rates in South Carolina?

THE WITNESS: I can tell you that we have, INA Towing Network has handled many accidents in the State of North -- in South Carolina, excuse me. And that we are well aware of what the prevailing rates are in South Carolina based on both regular non-consent towing and consent towing that we've been involved in for our clients in the State of South Carolina. And we've also managed commercial motor vehicle accidents in the State of South Carolina.

THE COURT: And may I just ask ...

Q: What are your client -- can you give representative client types by type or ...

A: I mean, we manage clients, such as I said, American Red Cross, all the way to -- American Red Cross, excuse me, all the way up to commercial motor vehicle fleets that operate multiple states.

Q: And insurance companies?

A: And insurance companies, yes. We service 14 insurance companies nationwide. So, again, we are seeing the rates and the bills that are being presented to us by South Carolina towers, you know, on a large basis. We have done business in South Carolina with towers and received invoices from them, both on regular tows and commercial motor vehicle crashes such as this. So, we have factual record of what the rates are and what the services being provided for those rates equate to.

THE COURT: Okay. And you've done what you call invoice billing review in South Carolina?

THE WITNESS: Yes, sir. I've done invoice billing review in South Carolina, yes.

THE COURT: Mr. Lindemann?

MR. LINDEMANN: I don't want to beat around with the semantics, but she kept saying we. And I don't know what we is versus her actually doing this work. I know your last question actually indicated that she has done review of billing in South Carolina, but she -- prior to that, she kept referring to we. And if there are other people on her business -- I understand she's the CEO of the business. I don't know

that she's actually done the work to actually develop these opinions.

THE WITNESS: May I?

THE COURT: Please?

THE WITNESS: I personally in my company in all of my functions in my company have full control and do the audits and all billing review myself, particularly on commercial vehicle motor accidents of this magnitude. Both in Middle Ground Resolutions, I handle everything in that on a day-to-day -- on any day-to-day basis presented in that, also as the CEO INA towing. And if the judge will beg my pardon here, I always say we, because in my house it takes a full team to do what we do and that is just my nature of action. I never take sole credit for anything that I do. So, that's -- I'm sorry, but that's just a natural nature. That's the way I -- I tell my team it's we. But I personally have been the person who has handled these billing reviews and actions and also compiled the rates, the directory we have for nationwide.

MR. LARK: We therefore move that she be allowed to be classified as an expert witness regarding

the regulatory and rate related matters as she has described.

MR. LINDEMANN: I'll stand on my prior position, Your Honor.

THE COURT: Okay.

MR. LINDEMANN: I don't have anything further.

THE COURT: I'm going to allow her to testify. I'm not going, you know, get -- she can't talk about how you interpret the regulations. But if she can tell us something about what rates are ordinary in South Carolina, she can tell us what she thinks that is, those rates might be. So, for that purpose, I'll qualify her as an expert.

Q: Ms. Rochester, I would leave the screen open for these five areas that we're broadly referring to and ask, if you would, just tell us which category you're talking about and whether what you've already said about rates is sufficient or -- but if you don't mind, just let things go through.

A: Okay. The two below it is just proficient services rendered during the course of an incident recovery. Again, that's something that I have to determine both in day-to-day

activities that we manage in South Carolina, but also I have been called upon by -- in law enforcement entities in multiple states. And I'm also a consultant to federal highway because I am what's termed a QC Specialist, meaning quick clearance. And we're looking at whether there's a -- these crashes, particularly commercial motor vehicle, big truck crashes, are being handled in a timely manner, so that we can clear the roads quicker for public safety. And that's why they're coming collectively together for everyone to be productive in that mode. So, as far as proficiency, I'm looking at the incidents to determine was the correct mode handled and did the scene produce well and cleared within a reasonable method. The dispute, resolution of the invoice for service in question and I've addressed that and considered best practice. It's something that I do on a daily basis. And walking through the invoices as we've done here, that's exactly what I do after a good fact gathering of exactly what transpired at the scene, what was the proficiency of it. And no one's addressed here, also the cost of ready

to serve, which is something that is part of what we term incident management. The incident response is there is a cost tied to being ready to serve on a 24/7 call out basis. All entities, including the State of South Carolina has recognized incident management as a key part to public safety. The validity -- and can -- could I pardon just a minute and ask for somebody to bring my glasses. I failed to get those. I am so sorry. I hate to interrupt that part.

MR. LINDEMANN: Your Honor, I hate to be difficult. But I don't know that there's a question that's even been posed. I mean, this witness is essentially giving a speech here.

THE WITNESS: Well, no, but I'm just -- he just asked me to clarify my points, so I was going to be speaking to it.

THE COURT: He's got something up on the board and he wants her to talk about. But I would rather her get to some questions and answer them.

THE WITNESS: I'm going to be quick. And then this -- you know, let's just go on, if you please.

Q: Go on by specific question?

A: Well, and the -- yes. Go on to specific

questions. I'm -- whatever you need.

Q: Have you included your description of the dispute resolution for the invoice for services in question considered best practice or do you have additional specific ---

A: Well, just that. That was one of my points that I knew you were going -- that I wanted to discuss is, you know, the complaint, was it filed based on a intrastate location and initiated by a third party. Some states don't allow that. Apparently South Carolina does. But most states ask that it -- that's why I can't file them for my clients. I have to have -- the client has to file the complaint, because I'm not the party of financial interest.

MR. LINDEMANN: Your Honor, that's a legal determination. Our regulation speak to that.

THE WITNESS: No, I'm just telling you from experience that in many states. So, I was just questioning, you know, what I -- they're just going to ask as to what the -- you know, it's allowed apparently, you know, for a third party to file.

Q: Are you considering Mr. Watson a third party

when you make that comment specifically here?
A: Well, in my case, he's a third party. I'm a third party. It's all the same difference.
Q: Ready to -- what do you mean by ready to serve cost of towing for incident response?
A: It just means that there is a cost tied to be able to keep equipment stocked, ready to go, and to respond on a 24/7 365 notice. And, again, this is both in South Carolina, this is -- and I'll speak to South Carolina, because I've attended incident management workshops here. I've actually taught incident management workshops here in South Carolina. And one of the things is understanding the investment of the towing company to be able to, you know, put the ready-to=service cost in with their annual operating cost in their rate structure.
Q: Were you here when Mr. Busbee -- I asked Mr. Busbee what his cost were for particular services?
A: Yes.
Q: And does that sound appropriate as far as you know, without knowing more specifics perhaps about his operations?
A: I don't know what his cost of business is and

that's why I -- I feel that he's pointed out that based on his cost of doing business. But I can tell you that the rates he stated are very similar to the national prevailing rates for cost of services stated.

Q: Is that in 2016?

A: Yes, in 2016.

Q: And then concerning the validity of the complaint filed that's got us here is Petitioner with the Department having the burden of proof.

A: I did question, you know, that this was a actually Georgia located case. And I did question that, because it's intrastate. And how the structure would ---

MR. LINDEMANN: Your Honor, I believe you've already ruled on this issue.

THE WITNESS: But that was my next comment, I believe that the Judge has ruled on that. And that's not as much to factor. But I -- and, again, this may not -- he may not -- I don't want the hammer on this, but I've also reviewed the regulation. And while I can't comment on from a legal side, I can see that there are things in the regulation, just such as the one

truck one hourly rate, which doesn't allow well for the tower to accurately charge the rates to compensate for what they're doing. I can definitely say that's a problem in the current rate sheet and the regulation just from the standpoint of what you would need to respond initially even to the tractor-trailer overturn.

Q: Would that -- applying that to this situation, the one man and truck tend to increase the risk of secondary accidents to the primary one here?

A: It totally would. In a commercial -- I can tell you in South Carolina in an accident that we would be responding to for a commercial motor vehicle overturned, I would be dispatching to the scene without question and prevail two heavy duties and an incident management response truck or an incident support truck, whatever you want to call it. That would be at minimum that I would be sending, because that's the minimum of what we're going to take to possibly relocate that tractor trailer out of a lane, which is a very common practice in incident management, which was indeed done in this incident that we have in question here. So I -- that equipment is

sent so you're not standing there waiting for additional equipment to arrive. There are systematic response systems that are taken place throughout the nation, that's just one of them. And when I'm sending out, if I've get -- when a call comes into my center for an overturned, I'm sending two heavy duties at minimum, an incident response vehicle. Those three units are rolling regardless.

Q: Were you here when Mr. Corbett went through the photos, mostly daylight and then have you reviewed the black and white from the insurance adjuster?

A: Yes.

Q: And based on that review and other information that you have, do you take issue with either the initial invoice or the supplement invoice? And if so, please provide us -- say why.

A: I don't really take any issue with the initial invoice or the secondary invoice. And one of the reasons is that in all of the proceedings that I feel we've had here and the discussion that we had, this is not just a tow recovery bill. It is a recovery bill, but also it has an incident response bill for a spill that's

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incorporated in it. And the traffic control is incorporated in it. And I think in order to really be fair, when you start looking at a recovery bill as its been termed or a tow bill as it -- a tow bill is contingently termed at initially $69,000 plus and then settling for $48,000 plus, it sounds like an astronomically number. But when you break it down that the traffic control was provided -- and I have cost numbers on that, what it cost to do a lane closure. And when you incorporate that in the bill and then she did -- spill containment was done at the scene and ultimately a spill clean up done, and I have numbers for what it cost to clean diesel fuel on an hour in the State of South Carolina. So, when you roll all of those in, that becomes -- it's not just a tow bill. It is a spill management fee bill, it is a recovery bill, and it is a traffic control bill rolled into one. And so with all of that being regarded, I can tell you that that bill was in line for the services that were rendered at the scene.

Q: The first and the second?

A: The first -- and I understand as it was

presented, yes. And I want to say here that it's not customary for a tow company managing an event of this magnitude to render a bill for anything at the site immediately. If we are asked for that, we say this is an estimate of services. Because at that point in time you're going to go back and you're going to review that incident with what I call the incident -- supervisor on scene with his billing party and you're going to go through everything, the documented time sheets, time of arrivals and all of that. That is not the recovery -- the supervisor recovery's job. That's the supervisor to management at the scene to keep up with all of that. I mean, for example, if I ask many companies who the main function and recovery supervisor is, he's not going to know how many hours this equipment was on the scene or that was at the scene. So, I feel that proper process was followed. That they presented an original bill and then, as they worked through it and reevaluated the hours and the times of service, then that's when the adjustments were made. If I can comment on this as well. There seems to be -- and, again,

I understand it says this about cost of services that you may contract. It is customary in, not just our industry, but if I tow a vehicle into a dealership, a truck dealership today and give them my tow bill, they mark that bill up to the end user customer. So, marking up a subcontractor's bill is not unusual business practice. It is commonplace practice, not just in towing, but in other entities because, what if you have a credit card fee associated with paying this contractor? Do you absorb those fees? Or what about if employee rates? I don't there's anybody here that is billing services just for what they pay an employee hourly, because they have other factors rolling into that and other expenses they have tied to that such as, you know, if it's overtime, it's time and a half. It's a variable. But as a businessperson with a business plan, you have to structure your rates for those accidents in advance and be able to prepare for the anomalies that may incur with any event. But I just wanted to make sure that that was known, that that was not a bad practice, you know. Because I can

tell you that the prevailing rate of this bill has quoted -- you know, the rates that were quoted of $85 an hour for a common laborer on the scene is very prevailing, not just in other states, but here in South Carolina. I'm not understanding, you know, where that logics from. I mean, I have personnel in my company sitting at a desk that make more than $25 an hour because they're safety sensitive positions. And they have to understand what they're doing. But I feel -- yes, I can honestly say that I feel like they, when you look at it, that this is three different segments of billing that happened and three different functions performed on this scene. I think it's been tunnel vision that's it's been labeled a tow bill. And it's not. There's three different bills in here.

Q: Do you see anything in particular that may be somewhat unique by the location of the accident unfolding on a bridge?

A: Well, anything located on an interstate thoroughfare is an elevated response for everyone, for all agencies, for all entities. And when you are dealing with a bridge, you

have a restricted work area. You also have a higher risk of your equipment being struck or you being struck, and this is proven, on a bridge. And the closer proximity you are to traffic, the higher risk you have of being struck.

Q: Are you aware that there is a joint South Carolina/Georgia proposal to expand I-20 both ways to three lanes each way? And if so, why is that -- why do you think that is ---

MR. LINDEMANN: Your Honor, I don't know what the relevance of that ---

THE COURT: I agree. Sustained. There's no relevance there, Mr. Lark.

MR. LARK: May I make an offer of proof by a statement or otherwise ask another question to see if it might be more acceptable?

THE COURT: You can offer it to -- you can make a statement for the record.

MR. LARK: We have offered conceptual drawings as an exhibit that we didn't actually put into evidence, based on your ruling on the media part, that shows what is purposed to expand the three lanes, east and westbound to enhance the safety of the bridge. It is an old bridge. It

is notoriously dangerous on most. We've got a state that is -- of South Carolina, which is, for some unknown reason, left a 70-mile an hour speed limit that is responsible for maintaining or changing in affect onto the bridge when the State of Georgia, coming off the bridge and going onto it from its side, lowers that speed limit to 55. Now, the fact the fatalities is there and the Department has a corporate -- sorry, an agency objective to lower fatalities in South Carolina statewide. Thank you. May I continue, Judge?

THE COURT: Yes, please.

Q: Ms. Rochester, do you have any suggestion about changing the speed limit over I-20?

A: I can't say ---

MR. LINDEMANN: Again, Your Honor, I don't know what the relevance of the speed limit is.

THE COURT: I agree. That's sustained as well. Mr. Lark, I know you want to make this a bigger case and charge public safety with not being safe. But we're dealing with one wreck in 2016, the bills and the behavior of this towing company ---

MR. LARK: Right.

THE COURT: --- and what she can offer about that case.

MR. LARK: This case.

THE COURT: This case. That accident, that bill, that behavior, that's what we're here for.

MR. LARK: Okay. Thank you.

Q: Do you take issue with any of the hourly components of the rates in either invoice?

A: No, the rates are well within line of what I have seen in South Carolina for rollover events, I can say that. I will also comment that the rate for the rotator that has been charged is well below the eastern region numbers for a rotator.

Q: Are you aware of any industry data -- South Carolina industry data that the Department has used from solicitation of comments or otherwise for the 2016 schedule?

A: No, I'm not quite sure where they came up with these rates or these numbers or the fact that you can only charge for one truck, one man. I'm just not sure where that would have came from.

Q: And would it surprise you if -- that the Department for the 2016 rate schedule did not

solicit proposed rates from the industry?

MR. LINDEMANN: Your Honor, there's absolutely no basis of facts for him asking that question. That's not in evidence.

THE COURT: I'm going to sustain that. And it's also not relevant to what we're here for.

MR. LINDEMANN: It's untrue too.

THE COURT: Continue with your questions.

Q: If Captain Hughes in his deposition stated that the towers did not understand the 2016 schedule, what would strike you as reasons they would not?

MR. LINDEMANN: Your Honor, that testimony is not before Your Honor. It's pitting witnesses against each other. And in addition to that, it's not relevant.

THE COURT: Well, I'm not sure how we pit a witness that's not here against one that is, but I understand your objection. Because, again, we're getting beyond ---

MR. LARK: Sorry. Captain Hughes is here.

THE COURT: I understand he's here. But he hasn't testified yet.

MR. LARK: No. He's ---

THE COURT: And he may not testify. I don't know

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that he will. But we're here to allow this witness to tell us something about reasonable rates and time if you -- I guess you could talk about the times to clear a bridge. But we can't talk about why we need a bigger bridge.

Q: Are times for clearing from accidents, do they -- are they greater or less if an accident occurs on a bridge, generally?

A: A bridge location could be on the predicating extensions, but anything can contribute to the length of an incident recovery up to including the cargo, what agencies are involved and what the disposition or handling of the cargo would be. That's common knowledge. There's no way that you can tie it to one particular category. I would not be inclined to do that.

Q: In this specific accident with the loading and reloading of the cargo concern you if you were reviewing an invoice?

A: No, because the decision was made to offload and re-palletize this cargo at the scene. And that was the direction of the adjuster. And, again, that was not -- that instruction he was giving as a representative from Premier. I can ---

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MR. LINDEMANN: Your Honor, move to strike. There's no evidence of that. Nobody from Premier testified to that effect.

THE COURT: That's right. Ms. Rochester, you're getting into an area of supposition about what may or may not have happened. We know an adjuster was there. We don't know what the adjuster said or do.

THE WITNESS: I apologize.

THE COURT: I'm going to sustain that objection.

MR. LARK: May I just offer another -- I'm not trying to be -- I'm trying to support my client ---

THE COURT: I understand that, Mr. Lark. I understand.

MR. LARK: --- Your Honor ---

THE COURT: And I don't blame you for doing that. But ---

MR. LARK: Bob Watson testified that it was the Premier adjuster on the scene yesterday.

THE COURT: Mr. Corbett testified to that today.

MR. LARK: After Mr. Watson did yesterday. Mr. Watson represents he's ---

THE COURT: But nobody's talked about what this adjuster may have said or done that -- so Ms.

Rochester can talk about secondhand. And that's the -- as I understand it, that's the purpose of the objection.

MR. LINDEMANN: Yes, Your Honor.

MR. LARK: I'll withdraw it.

MR. LINDEMANN: That person has not testified either here or by deposition.

MR. LARK: I'll withdraw and then rephrase, Your Honor.

THE COURT: Okay.

Q: Do you have anything to say about the time of clearance and the results?

A: It says the cargo was -- had to be offloaded and it was reloaded into another unit to be able to upright the trailer to totally clear this event. The hours are within a reasonable regard.

MR. LARK: May I ask The Court a point of clarification winding down here?

THE COURT: Okay.

MR. LARK: At one point in this discourse Mr. Lindemann stood up and said, you've already ruled on that, Your Honor. And what I thought he was referring to was that you were not going to allow the boundary maps to come into the

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record. Is that correct? Is that your understanding?

THE COURT: When you start asking her about the bridge expansion ---

MR. LARK: Yes, sir.

THE COURT: --- and about the relative safety of Georgia and South Carolina highways, that's not part of this case. And he's correct. I've already ruled on that.

MR. LARK: That's what you were referring to.

THE COURT: And that goes back to whether this wreck occurred in Georgia or South Carolina. We're here because a wrecker in South Carolina was called by a South Carolina Highway Patrolman and -- or dispatch. And that's where we -- that's what got this thing going. That's why we're here.

MR. LARK: Then I better just make a statement for the record. If your ruling -- some prior ruling is construed to not being able to challenge the -- essentially the burden of the Department as to having to met to show this was an intrastate situation to which its rules apply -- its schedule applies. I maybe missing something. I don't, you know, profess to be

the sharpest whatever on the block.

THE COURT: Mr. Lark, you're doing a good job here. But we've got certain things we can do in this Court. And insofar as that's where we are, that's what we're going to do. So, if you've got some other questions for this witness that she can answer, this is your opportunity to ask her.

MR. LARK: May I take a quick break to ask them -- that's all, Your Honor.

THE COURT: Thank you, Mr. Lark. Mr. Lindemann?

MR. LINDEMANN: Thank you, Your Honor.

MS. ROCHESTER - CROSS-EXAMINATION BY MR. LINDEMANN:

Q: Good afternoon, Ms. Rochester.

A: Yes.

Q: I know we're getting short on time, but I do have a few things that I definitely want to run by you. You understand, do you not, in offering your opinions in this case, that Wayne's Automotive was responding to a rotation call?

A: Yes.

Q: Okay. And pursuant to a rotation call in South Carolina, there is a fee schedule that's in place, you're familiar with that?

A: Yes, I've reviewed it.
Q: Are you familiar with the 2016 fee schedule that Wayne's agreed to?
A: Yes, I've reviewed it.
Q: Okay. And I recognize you may have some issues as far as the fee schedule -- the fees are provided in the schedule, but you understand that that's something that they agreed to, correct?
A: Yes, I understand they agreed to that fee schedule.
Q: And you understand that South Carolina law does not require a wrecker services like Wayne's or Busbee's to actually get on the highway patrol wrecker rotation list?
MR. LARK: I object. Calls for a legal conclusion.
THE COURT: Mr. Lindemann is asking, I think, whether all wrecker services are required to be on the rotation.
MR. LINDEMANN: That's what I'm asking.
THE COURT: I don't thing that's a legal issue. I think it's a factual issue, so I'll allow her to answer that question.
A: All rotation lists will be -- not just South Carolina, but it's normal practice and in South

Carolina, I can assume, it's the same way ---

Q: It's voluntary?

A: It's voluntary.

Q: All right. And so, nobody forced Wayne's to accept a assignment from the Highway Patrol?

A: No.

Q: Okay. Do you have a copy of the fee schedule in front of you?

A: I didn't bring up my notes, since the last person got called out on it. I have a whole nice binder. I was ready.

Q: Let me find it for you real quick. It's part of Exhibit Number 1.

A: Okay. Thank you.

Q: Right there.

A: Okay.

Q: I assume you've taken a look at that before.

A: Yes.

Q: And as far as expenses by a third party, a third party contractor, this document only allows the towing service to charge actual costs, correct? And I'll be happy to point out the language that I'm referring to. In fact, I'll get you to read that sentence into the record. See here with this asterisk?

A: Yes.
Q: Read that sentence, if you would.
A: It says, although no special operations fee is set for Class C tows, a wrecker service may recover the actual cost of rented subcontracted equipment or labor necessary to accomplish the job.
Q: Okay. And so, when there are third-party expenses, what this provides, am I correct, the actual cost?
A: That's what it states, but it also states for tows. I mean, that fee is set for Class C tows.
Q: But it's talking about for special operations, correct?
A: Right. Right.
Q: Okay. It's talking about rented or subcontracted equipment or labor is to accomplish the job, its actual cost?
A: That's what it states.
Q: All right. And actual cost doesn't mean I get a bill from a contractor and I can add a third surcharge on top of it, does it?
A: But if actual costs are in there for credit cards or other administrative fees for carrying

that cost on their business, that's actual cost.

Q: Well, I'm not asking you -- or were there credit cards fees from Vern's?

A: I don't know.

Q: Were there credit card fees from Mrs. Busbee's (sic) business?

A: I can't -- I'm not privy to their business records. But I can tell you -- I can tell you that those are considered actual cost.

Q: Did you see an actual invoice that it was ever submitted by Mrs. Busbee's business -- I mean, Mrs. Corbett's business?

A: That was not part of my review records.

Q: Did you see any invoices that were provided by Vern's?

A: No, sir. I'm not. I mean, I was asked to review this for rates -- I mean, for the reasonableness of the rates. And that's what I reviewed.

Q: So, you didn't do a review like Mr. Watson did?

A: I did a review in greater detail than Mr. Watson did.

MR. LARK: Objection. No foundation laid.

Q: So, you didn't do a review like you would

normally do when you're working for your company that actually -- I'm trying to find the name of it. What was the name of your company where you reviewed bills?

A: Middle Ground Resolutions.

Q: And you reviewed bills for insurance companies under that heading, correct?

A: Yes. Yes.

Q: All right. Did you do a review like that in this case?

A: Yes, I did.

Q: Okay. And you did that review without looking at the underlying documentation?

A: I did my reviews based on the actual facts that were presented to me, the photos reviews, the billing that was presented to me -- that was presented to me that was presented to the customer, the end user.

Q: All right. And did that include any invoices from Vern's towing?

A: No, it did not, because I was reviewing Wayne's subject matter in the bill.

Q: Okay. But there are charges in his bill that are sublet from Vern's, correct?

A: I see them listed on there, yes.

Q: Okay. But you never saw the bill then from Vern's?
A: I doubt Mr. Watson did either.
Q: All right. How about from South Carolina Incident Management, Ms. Corbett's business? Have you seen any invoices from them?
A: No. I mean, I was asked to review Wayne's bills. What is in the record as exhibit is what I have reviewed.
Q: Okay. So, my question is, did you review any invoices that were billed to Wayne's from South Carolina Incident Management, LLC?
A: They were not submitted as a separate invoice, because I hold that they were presented on the one invoice that was given to Premier and has subsequently always been submitted.
Q: Did that one invoice break out what was -- what services and equipment were provided by Wayne's versus what was provided by Vern's versus what was provided by South Carolina Incident Management?
A: Based on the way the rate structure is set and the regulation that he abides by, he's -- everything on that bill, with the exception of the one-truck-one-man and possibly the other

truck, if the Highway Patrol gave him permission once he asked can I bring out another truck, would be from SCIM.

Q: All right. So, my question is, did the bill itself break out by line item what was being charged for the work of Vern's, what was charged for the work of SCIM?

A: I can tell you in looking at that bill -- since SCIM is a management company, I can definitely tell you that in looking at it what subject matter -- what items in that bill would have been provided by her. I mean, they did the spill containment and the traffic control and the recovery.

Q: And can the customer determine that?

A: That's what a specialist such as myself does. We break out bills, that's what we do. That's our field of expertise. That's what we do.

Q: Could a customer tell that from the bill?

A: No, because a customer's not an expertise in reviewing some 4,000 truck crash bills a year as I am.

Q: Could the Highway Patrol determine that from that bill?

A: He determined what's reasonable rate setting in

this witness stand yesterday and said that he could.

Q: Could a highway patrol determine, from looking at the bill, what was provided by South Carolina Incident Management?

A: I don't feel I can adequately answer that question. I really don't.

Q: Okay. How about, can you tell from that bill what equipment is owned by Wayne's versus what equipment is owned by South Carolina Incident Management?

A: I cannot, other than the fact I can tell you what is primarily -- what equipment on there is primarily provided by an incident management company in response for traffic control and a spill company that is in response to contain a diesel spill. I can definitely look at that bill and tell you which pieces of equipment, which items would have pertained to that block of service.

Q: But you don't know, by looking at that bill, what piece of equipment was actually titled in the name of Wayne's versus what was titled in the name of the other company, South Carolina Incident Management, correct?

A: I would have no way in looking at that invoice. But the whole issue in this to me has been, we've never separated this out and looked at it as a recovery bill with three services provided.

Q: And you said you found that the $69,000 bill, the very well -- it's actually the second bill. The first one that was combined, you found that that was a reasonable bill?

A: Yes, for the services, the three services combined, yes.

Q: All right. So, is it your testimony then that -- when a customer pays $436 for a wrecker, is it your understanding that an individual comes with it, an operator comes with it?

A: That varies per state of operation.

Q: All right. What's your understanding of how it was suppose to have been done in South Carolina?

A: I understand in South Carolina, it states that it's with an operator.

Q: Okay. Did you notice on the bill that the operator of each of the heavy-duty equipment trucks was included as a separate line item for labor?

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A: I did observe that. But I can tell you that in cases and in billings I have reviewed, they are sometimes listed separately because they might perform a different duty status at a different cost than being the operator of that unit.

Q: All right. And so, then there would be additional hours over and above the hours then that you're paying for the actual equipment, correct?

A: As a rule, yes.

Q: All right. So, if you've got a -- if you're charge -- if the customer is charged 21 hours for a heavy-duty truck or wrecker and then also charged 21 hours for that operator who is tied to that truck, that's a duplicative payment, a bill, isn't it?

A: You would observe that on the surface. But I have reviewed bills and first thought that and found out there were two operators in that -- there was an operator and a technician in that same heavy-duty unit.

Q: All right. Well, I'm asking you is about this particular bill. If you heard Ms. Corbett's testimony yesterday that they billed for, the

individuals name was Kevin Johnson, and Kevin Johnson was tied to one of the heavy-equipment trucks, that was an over bill; was it not, ma'am?

A: I don't -- again, I don't know is she tied -- I mean, I would have to ask her specifically, and that question was never asked to her, was there another technician in that heavy-duty truck when it arrived at the scene. I don't know that.

Q: Okay. So, you can't then support your own opinion that this bill was reasonable because you don't know the answer to that question.

A: No. I don't know. She could have tied another technician to that situation. But I'm telling you the bill, as it was presented for the three blocks of services provided, is fair and compensatory.

Q: All right. How about the other heavy-equipment vehicle. Was -- had an individual named Brian Robbins, if I'm reading my handwriting correctly, that was tied to that vehicle, that would be an overcharge as well charging his time separately; would it not?

A: I can't say that.

Q: So, you can't say it was reasonable or unreasonable?
A: I say that that rate is fair for a technician. That's what you're asking me, is that rate fair for a technician. And it is.
Q: I'm asking you if he's being double billed twice --
A: I don't know that.
Q: -- if he's tied in one vehicle ---
A: I can't answer that question. I can tell you the rate's fair for a technician/operator. That's what you're asking, that's what I'm telling you.
Q: Let me ask you this. The airbag charges, $4,000 for ruptured airbags. You saw that there's evidence that those airbags cost 3350 brand new. Is that a reasonable charge in your opinion?
A: It was never testified that the bag quote she got was for new. I'm sorry, sir. I can tell you that $4,000 for an airbag is a normal price for the industry standard.
Q: Well, the record will speak for -- do people sell used airbags?
A: Yes, sir, they do.

Q: Okay. And so, you don't know whether or not that -- what she was offered was for a used airbag?

A: I don't know, sir. I don't know. I wasn't privy to the conversations.

Q: So, without that information you can't determine whether or not that was a reasonable charge, correct?

A: No, sir, I can. I can tell you that I have reviewed for air -- I have paid for airbags that have been damaged at a scene either due to acid or cuts that I determined were justified to be paid. And I have paid $4,800 for an airbag in compensation.

Q: A thousand dollars for use of 28 cones for 20 hours, taking a position in this Court that's reasonable?

A: I'm taking the position to The Court that what you're being -- what I feel has not been considered is the cost to put those cones out, take them up, store them, maintain them, make sure they remain MUTCD compliant, which is the national code that they have to work by. Those cones have to remain clean, reflective at all times. That is what she -- I feel can be

factored into the cost of using those at a scene. That's what's being missed here. It's all the maintainment cost of that product every time it rolls up to the scene that has to be considered in the overall cost and charging every time they're used.

Q: So -- but there are labor costs that are also charged, so wouldn't that be duplicative? If you say the $1,000 inclusive of labor, but they charge for labor, that would be duplicative, wouldn't that?

A: No. They have to have labor to put the cones out and pick them back up.

Q: And they charged for labor; did they not?

A: Again, if someone would be -- can I get the invoice in front of me, please?

Q: Sure.

A: Can we tab which one that is ---

Q: Yeah. It's -- Exhibit Number 6, Respondent's Exhibit Six.

A: The reason I asked for that is that the thing with the loading dock has been very confusing and I sorted that out at first. Okay. So, they charged for the traffic cones, for the use of the traffic cones at the scene at 20 cones

at $50 an hour, which I -- 20 at 50, which I feel is reasonable. And I've seen similar cost on other invoices.

Q: All right. You've seen ---

A: In South Carolina.

Q: In South Carolina, okay?

A: Yes.

Q: Name one.

A: It doesn't matter. I can tell you what company it was for. I have worked accidents in South Carolina and reviewed traffic control bills in these -- and I just -- they're customary.

Q: Name one. You've just said you've seen them. Tell me one.

A: But am I suspected to sit here and note every bill that I've ever reviewed or done in the State of South Carolina or North Carolina or anywhere for that fact?

Q: You're testifying to this. I'm asking you to substantiate. I'm only asking for one. Name one.

A: If I were to give you one, just -- again, I can have my files here, I could pull out a half a dozen. But I know that the case was down in -- just outside of Walterboro. It was more than

likely Tommy's, if I were not mistaken.

Q: And they charged $50 an hour for 48 cones?

A: How they split it out is irrelevant. The fact that there's a charge for bringing cones to the scene to be utilized and a cost of maintaining those cones to be MUTCD code compliant. And it doesn't matter what she paid for -- she may have had a higher grade cone than Mr. Watson had scoped.

Q: Ms. Rochester, you offer -- you're not offering any opinions on whether or not Wayne's acted appropriately in retaining the cargo after being requested to release it, are you?

A: That was a commercial cargo. It wasn't a personal cargo. It's my contention that it doesn't fly, but ...

Q: But you don't know the South Carolina Law on that subject?

A: I'm not saying it's South Carolina Law, I'm just stating that it's in the -- their regulatory they signed off on says personal cargo. And this is a commercial cargo. And at the time that they were asked to release it, it's still commercial cargo. They didn't change.

Q: All right. Let me ask you a couple other real specific questions. The $1700 charge for the communications equipment, do you believe that's reasonable?

A: Yes.

Q: And you heard testimony earlier today that they paid a total for that equipment of, let me get the number right from Mr. Rawl, 4850. So, you're saying a one-time 20-hour usage of that equipment, a fair and reasonable fee to charge for it is more than one-third of the cost?

A: Yes, sir. It is fair and reasonable. I've paid it, seen it, and it's been presented at other billings, yes.

(Respondent's Exhibit Number 29 was marked for identification purposes.)

Q: All right. Ms. Rochester, let me show you what's been marked as Respondent's Exhibit 29 and see if you can recognize that document.

MR. LARK: Your Honor, we object to consideration of this. It had not been presented to us until this morning.

MR. LINDEMANN: Your Honor, I'm happy to hand you up a copy. It's impeachment, Your Honor.

MR. LARK: This is 2010, Your Honor.

THE WITNESS: Yes.

THE COURT: Mr. Lindemann, tell the purpose of this exhibit.

MR. LINDEMANN: Your Honor, this witness has testified that a 69,000 bill was reasonable and that the various rates that were charged were reasonable rates. This is impeachment material. This is a complaint that she filed with the West Virginia Public Service Commission seven years ago. And obviously inflation hasn't been that bad for seven years, so it's not like I'm going back 30 years here. And it will reflect what her opinions were at that particular time and also deals with an overturned tractor-trailer and cargo. And I think it's an appropriate impeachment to show Your Honor the position that this exact witness took in a very similar situation just seven years ago on behalf of a different client who obviously was in a position of trying to cut the bill. And, Your Honor, will notice, and I'll be happy to go through it with Ms. Rochester, the original bill was 20,700 and Ms. Rochester recommended that that was high and asked the Commission to award only $11,185 for

that particular charge, so a little over 50 percent. And so, I think it's relevant to The Court to be able to weigh this witness' credibility and believability on these opinions as to how she is presented as -- and this is to a court, so The Court can certainly take judicial notice of it. I'm just looking if it was sworn. I'm not sure it was sworn or not. But bottom line is I think it's very probative to The Court. It is sworn. She signed it before a notary. So, that The Court gage her testimony. She is presented as an expert, so I believe it's appropriate impeachment for an expert.

THE COURT: Okay. Mr. Lark?

MR. LARK: If you allow this in, then you should allow the 2017 rate schedule in and the 2015 for that matter, because we're talking about modifications and rates over time within one year, less than within three months, August of 2016. The proposed rates were filed with the Department to Captain Hughes. And he wants to, you know, use a court order that's seven years old.

MR. LINDEMANN: This isn't a court order.

MR. LARK: Well, complaint to show some inconsistences. So I think what's good for the, you know, goose is good for the gander.

THE COURT: Well ---

MR. LINDEMANN: It's actually apples and oranges, Your Honor.

THE COURT: I think you're right. Mr. Lark, what we've got here is apparently Ms. Rochester taking a different point of view in a different circumstance. And on that basis, I'm going to allow this document and he can question her on it. It's something she signed. So, I'm going to allow that. So, with objection, Respondent's Exhibit 29 is admitted.

MR. LINDEMANN: Thank you, Your Honor.

(Respondent's Exhibit Number 29 was admitted into evidence.)

Q: Real quickly, Ms. Rochester, just want to go through this with you. You're familiar with this document?

A: Yes.

Q: Okay. Is this a complaint that you submitted with the West Virginia Public Service Commission in 2010?

A: I submitted it, but the complaint was withdrawn

because it was a third party submission which they would not allow.

Q: All right. Well, this was a submission that you presented?

A: Yes.

Q: Okay. And you swore to it?

A: Yes.

Q: All right. Page three of that document, is that your signature?

A: Yes.

Q: Okay. And there was a notary public that signed off on your signature, correct?

A: Yes.

Q: All right. And you presented this in your capacity as an employee or officer of Middle Ground Resolutions, LLC?

A: I did.

Q: And you were representing your clients, Northland Insurance and Portland's Produce, correct?

A: Yes.

Q: And one of your primary complaints in this -- well, let me ask you this. The situation involved an overturned tractor-trailer and cargo, correct?

A: Uh-huh (affirmative response).
Q: And looking at paragraph 2A, the area that's typed in looks like a fill in the blank, that would be information that you would have provided and swore to, correct?
A: Yes.
Q: And it says you were challenging, you were complaining about elevated rates and hours to recover an overturned tractor-trailer with cargo, correct?
A: Yes.
Q: You also complained about excess personnel and equipment, correct?
A: Yes.
Q: Okay. Well, let's look at what was billed and what you recommended would be a fair resolution. If you would look over, turn over to the fourth page of that exhibit.
MR. LINDEMANN: And, Your Honor, I'm not going to do it on the screen, since I assume you have the copy.
THE COURT: I do.
Q: There was a -- is that a page that you prepared?
A: Yes.

Q: And you broke out the, what you thought would be reasonable between a tractor-trailer, cargo and then gave a total, correct?
A: I did.
Q: All right. So, the column that contains tractor-trailer total, the cargo and total, those are your numbers, correct?
A: That's correct.
Q: All right. And the original was what was charged by the towing company?
A: Correct.
Q: And you had the original towing bill, which included a subcontracted contractor named Abbotts (phonetic), lists a total of $20,700, correct?
A: Let me look at it. Couldn't be that -- hang on a minute. It's difficult to read them. I cannot -- it says something about Abbott's in here, but I -- Abbott's bill was not the full $20,000.
Q: Okay. Well, let me back up. The first page --
-
A: Yeah.
Q: The complaint was actually made against Mitch's

A: Right.
Q: --- 24-hour towing and recovery, correct?
A: Right.
Q: And Mitch presented a bill that included subleted work by Abbott's; did it not?
A: Yes, it did.
Q: Okay. And so, in your breakdown on the page that we were just referring to, I think it's the third page -- fourth page in, on the left side you have a column of different entries. In the first section is Abbott's sublet and then the second section is Mitch's equipment and labor, correct?
A: Yes.
Q: All right. So, it looks like to me you're breaking it down between the work Abbott did and the work that Mitch did.
A: I did, because they both had similar equipment. And I do want to make sure that it's understood -- I would like to be able to comment on this, the circumstances of this crash versus the crash that I'm making an opinion on now.
Q: All right. Feel free to describe the crash.
A: This had -- did not have any similarity to the crash we're dealing with today. This was a

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load of produce that was supposed to be disposed at the scene that was not. They had a directive to dispose at the scene and they didn't. And the food product was disbursed throughout the neighborhood and there had to be other involvement where it went to. This did not involve traffic control being provided by this company, nor did it involve a fuel spill being done by this company. And the unit was not corrupted as the unit was in this. And I would have to double check my time frame on the crash, but also West Virginia rates were prevailing at that time. And they had not charged by the West Virginia rate structure either. So, my numbers over here are factored on the prevailing West Virginia rate at that time. So, I want to make that clear that that's what I structured this on, was what the prevailing West Virginia rate at that time was. And then that towing cost had risen expeditiously for a number of reasons since this time. But, again, these are West Virginia rates; the location, the corruption of the incident was totally different from what we're discussing here today; there was no traffic

control provided; and there was no fuel spill mediated at this site by this company presenting this bill; and the cargo was not handled and disposed of correctly. And they were also found by prevailing records that we were able to get that they were not at the scene the amount of hours they stated. That was determined by the CAD system hours maintained by the responding agency.

Q: All right. So, looking at this, you -- the original charges were 20,700 and you recommended and requested that the Public Service Commission award only 11,185, correct?

A: Again, based on West Virginia Service Commission rates that were prevailing at the time, not my rates, they're rates, and the amount of hours of service that was found to be proven that the company actually provided.

Q: All right. And tell me the amount of hours that were initially billed?

A: Let's see here. He's got 13 -- I'm seeing 13 hours and -- 13 hours for some of the personnel, 10 hours, nine hours, three hours. You know, again ---

Q: And you challenged the amount of time and were

already recommending payment for seven hours?
A: I'm going to state this once again for the record, please, sir. It was determined that the hours they stated were not correct by the official time keeping record of the West Virginia patrol.
Q: All right. Well, let me ask you this.
A: And -- if I may finish. And the prevailing West Virginia rates, which are on file at that time.
Q: All right. But you also challenged in this case the fact that they were charging for multiple employees when they shouldn't have been, correct? Because the employees were tied to the vehicle.
A: No. No, sir. It was established they stated employees that were never at the scene.
Q: Does it say that in that document, ma'am?
A: No. There were employees that were established that were never at the scene.
Q: Okay. It doesn't look like there are employees that you're actually are sitting here saying we take them out completely. You're just reducing employees from -- to a seven-hour time ---
A: In other words, where it says Mitch and Cody,

that's actually the same person by the same name.

Q: Okay.

A: Okay. And then ---

Q: How about Dicky and Travis, were they at the scene?

A: That's telling me that Dicky and Travis were both in that -- they responded in the rollback.

Q: Okay.

A: Okay. And same were Scott and Irick.

Q: And what you were recommending there for two employees was a total of $125 an hour, correct?

A: I'm going to state this again for the record. You keep asking me to say it wrong. I adjusted the charges per the prevailing West Virginia rate.

Q: And West Virginia's rate was $125 for two employees?

A: I would have to have my file in front of me to go back and pull the 2010 West Virginia rate. But that's all -- my complaint had to be based on the prevailing West Virginia rate.

Q: Look under Mitch's equipment and labor. Rollback, Dicky and Travis, that's two different people, correct?

A: Uh-huh.
Q: Is that correct?
A: Yes.
Q: All right. And you reduced it from 13 hours to seven hours, correct?
A: Because it was established that's actual time they were on the scene.
Q: Okay. So, $875 was for two employees for seven hours, correct?
A: Again, it's the total of what the West Virginia prevailing rate is for the truck and what the West Virginia prevailing rate was at that time for an additional labor.
Q: That's fine. I understand that. Just do the math. It's $125 for two employees, correct?
A: That's West Virginia's rate, not mine, sir.
Q: Okay. I understand that.
A: Okay.
Q: So, that was a reasonable rate for West Virginia in 2010?
A: That's what the West Virginia determined to be fair and reasonable in their state in 2010.
Q: All right. And that's you were ---
A: It's not what the rate is now.
Q: All right.

A: Or '16.
Q: And as far as for Keith and Les, it was $90 an hour for two employees, correct?
A: West Virginia prevailing rate. I'm going to tell you that until you ask me -- if you ask me that question 50 times, I'm going to tell you the same thing.
Q: That's fine.
A: Okay.
Q: Let me ask you this. You said you relied in this particular case on documentation as to when the equipment and the individuals were on the scene.
A: Yes.
Q: What documentation have you seen to substantiate the 21 hours that Wayne's is claiming to have been on the scene?
A: I have reviewed and I have -- was given the times that they started and the times that they finished and I also know and understand there are GPS equipment readings on their truck.
Q: And you've seen those?
A: No, I did not ask for them.
Q: All right. And so, tell me when they started the project. Because it seems like Mr. Corbett

couldn't testify to that. So, tell me what you're basing it on.

A: I'm basing it on the time they received the call until the time that they were back at the shop, had reworked their equipment to be able to be ready to serve and they dismissed everyone from that scene. All charges for all tows or recoveries are from port-to-port, meaning from the time you start until time you finish and recoup and release all personnel.

Q: And I'll go back to my original question is, you said you relied -- your direct testimony is that you relied on documentation that is kept by the project leader?

A: Yes.

Q: What documentation have you seen that was kept by the project leader in this particular case? Because nothing has been put into evidence in this case, nothing has been produced.

A: I have asked if the hours recorded in this bill and all the time stamps are correct. And the answer that I received on that is yes. And I could further add, after sitting in here for two and a half days almost, no one has come forward to refute the hours from the South

Carolina Highway Patrol that these hours are legitimate. And I would feel that if they had a CAD system at their disposal, which they do, and they should have been tracking this event, that they would have refuted these hours.

Q: And what time, what time stamps are you referring to? I haven't seen any time stamps.

A: She produced a call time sheet when the call came into her call center.

Q: Okay. And those time stamps -- are you referring to Respondent's Exhibit Number 1? I'm sorry, Respondent's Exhibit Number 9?

A: Yes.

Q: Okay. And what are the time stamps you're relying on?

A: Well, and again, I understand exactly what was -- when Sherry was talking about this, I understood it that, you know, she's showing that it was received at 4:29. But I know that there was a earlier call to Wayne's on that and I feel this is the time that it was racked up in the call record and time stamped.

Q: So, what time stamps are you relying on, ma'am, that you have seen? You said you were relying on time stamps.

A: I'm relying on the time stamps that are stated in the invoice and in discussion -- no, in understanding with counsel that the bill has been presented with that based on this time, there are photos when the adjuster was there, and also knowing when the unit was moved off the bridge the amount of hours and time in normal standard it would have taken to recoup that cargo and get it all out of that trailer and loaded into another trailer, and then subsequently cleared the trailer from the scene.

Q: Show me the time stamps on the bill, ma'am.

A: I can only tell you that I can look at this, which I have ---

Q: You just said there were time stamps ---

A: --- and the other evidence has been presented of the pictures that are in evidence of when this unit was cleared off the bridge.

Q: Please answer my question. Where are there time stamps on the bill?

A: I see the 21 hours on the bill.

Q: That's a time stamp?

A: And I know in -- no one here has refuted the amount of time that Wayne's ---

Q: What is your definition of a time stamp?
A: The hours are stated on the bill. And I have nothing in front of me or have been presented anything or any presentation by the South Carolina Highway Patrol, who is the time keeper, to refute that they were on the scene the amount of time they said.
Q: And what's your basis of saying they're the timekeeper?
A: The South Carolina Highway Patrol and the South Carolina DOT track their incidences by the time. And know when the scene is cleared and what's happening at that scene.
Q: So you're saying Wayne's had no responsibility to keep track of their time and bill the appropriate amount of time?
A: They did -- I believe that they did keep and bill the appropriate amount of time because I have nothing in front of me to refute that. And I had an officer of the agency who was there sitting in this Court, there were others that have been here, and no one has refuted the hours charged on this bill.
Q: We're very much refuting the hours, but what is the ---

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MR. LARK: Objection. No foundation.
Q: What is the time stamp that you're relying on? You said you relied on time stamps. Tell me what those are.
A: I know when the incident -- you know, the incident occurred at 3:20. We see here at 4:29 a.m. and he had 45 minutes response. His clock starts, when he gets the call.
Q: Okay. And when does that time stamp show the job was finished?
A: 4:29 -- it doesn't show -- it doesn't -- it shows --
Q: It uses the words finished; does it not?
A: Sherry's already stated to you and I'm telling you that this was when -- that finished is in there and she's told you that was an error. You're not going to hold me to that. They were still ---
Q: What time stamp are you using to determine the finishing time?
A: Based on the photo -- we had a photo that you have in evidentiary here that shows a time -- when the adjuster took a picture, you produced it, when you asked about it specifically when the trailer was cleared off the bridge. And

that in itself was very much around this 11:38 time frame.

Q: All right. Show me that photograph, please?

A: If you'll pull it -- it's the one where you specifically asked Wayne when it was moved off the bridge. And it's got -- I believe it's got a time stamp of 10:03 on it, 10:03 a.m.

Q: 10:03 a.m.?

A: Okay. And Wayne testified that it took him -- Mr. Corbett, excuse me, testified that it took him additional time to move the tractor into the Georgia line and to get the trailer moved back and relocated. That is not the time he cleared this event.

Q: Okay. So, what is the time that the event was completely finished, if you're disputing the time stamp that is on Exhibit Number 9?

A: Again -- okay. This event in total time, you asked ---

Q: There is no time stamp that you're relying on?

A: You're asking me questions to say ---

MR. LARK: Let her answer the question, please.

A: I'm not their time clock keeper. And I have nothing here in front of me -- I have their invoice been presented. No testimony has been

given during at any point in time that this was not an accurate record time they were on scene. And I feel that if that were the case, it would have already been brought to the attention. But if you want to run it -- the time they would have had to have cleared this scene, the fact that they still were working this scene, just had gotten it cleared somewhere just before noon off the bridge, then they still had to completely offload the cargo, repalletize all that, and get it done. Their reasonable clearing time or reactive clearing time for that is going -- where they're going clear everything and be done is going to be, you know, 2:00 a.m. -- between 12:00 and 2:00 a.m. the following morning.

Q: You have absolutely no basis to give that opinion, because you have no times ---

A: I do have that basis ---

MR. LARK: Object. Badgering the witness.

Q: --- because I know the time that it takes to handle -- to offload a tractor-trailer. I do it 4,000 times a year.

Q: And how many employees did they have doing that?

A: I've had -- I've worked accidents ---
Q: How many employees did they have doing that?
A: I'll look at the invoice again, sir. I'm not going to say something not factual. Okay. I don't really -- I know -- okay. I can tell you the amount of people that were totally on the scene, but they're all performing different functions.
Q: Say that again. I'm sorry.
A: These people on the scene are performing different functions, so I can't tell who was performing cargo offloads versus who was doing the clean up on the bridge.
Q: Well, there are lots of people who are being charged for 21 hours, correct?
A: But again, sir, that bridge still was not cleaned up when they moved it off. And that's already been testified in previous matter.
Q: All right. Mr. Corbett testified the bridge was clear and open by noon. He agreed ---

(Multiple Voices at Once)

A: It wasn't -- he did not testify to that. It still had to be cleaned.
Q: All right. The record stands for itself.
MR. LARK: Please let the witness complete her

answer, Counsel.

Q: You would agree with me that Mr. Corbett charged 21 hours for himself, correct?

A: I see on here this bill shows recovery supervisor.

Q: Okay. That's him, right.

A: It says, JC.

Q: Okay. You don't even know who that is?

A: It's been testified that it's Jeff Corbett.

Q: Okay. There are two other recovery technicians that are billed for 21 hours, correct?

A: I see that, yes.

Q: All right. Thank you, ma'am.

MR. LARK: Your Honor, in light of the allowance of this 2010 West Virginia matter, I would like to show the witness the South Carolina schedules for 2013, '14, and '15 to ask the witness a few questions about -- this is my only set I have.

THE COURT: Mr. Lindemann.

MR. LINDEMANN: I'm sorry.

THE COURT: He wants to show her the schedules from ---

MR. LARK: The 2013, '14 and '15 ---

THE COURT: --- '13, '14 and '15.

MR. LARK: --- rate schedules for South Carolina.

MR. LINDEMANN: Your Honor, I oppose that for the same reasons we've already talked about, Your Honor. It has absolutely nothing to do with -- anything that happened after the fact in 2017 is absolutely not relevant to the reasonableness of the fees that were in place in 2016.

THE COURT: He wants to ask her a question on 2013, '14 and '15.

MR. LINDEMANN: Your Honor, again, that's not what this case is about. It's about 2016 what they agreed to.

MR. LARK: It's not about 2010 West Virginia decision or ---

MR. LINDEMANN: That was purely for impeachment.

THE COURT: That's purely for impeachment. He's right. He's right. I mean, you can -- I just don't see how that relates to what we're here for today.

MR. LINDEMANN: Plus it's beyond the scope too.

THE COURT: It is. Absolutely, beyond the scope what we're here for. I would sustain that objection.

MR. LARK: All right. I only have these three copies, so I'd like to offer these as a

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collective exhibit not admitted. But could I -- I don't want to trouble The Court at this hour necessarily, but whatever the best way ---

THE COURT: That's fine, if you want to do that.

MR. LARK: Could I just put copies in tomorrow or something? I'm not saying the hearing is going on, but I don't know how to do this -- maybe your copier works now, I don't know.

THE COURT: It is not. But if you -- we can figure out something. We'll get you a copy and get it back to you.

MR. LARK: Okay, Judge. In light of that, Your Honor, we have nothing further for the witness.

THE COURT: Ms. Rochester, thank you for your patience and testimony.

THE WITNESS: Thank you. These belong to you, so I'm just going to put there right here.

THE COURT: I don't want to have to chase any witnesses down to get my exhibits back.

THE WITNESS: No, sir. I'll leave them right there where they belong.

THE COURT: Anything further, Mr. Lark?

MR. LARK: No, Your Honor.

THE COURT: Mr. Lindemann?

MR. LINDEMANN: None in follow-up, Your Honor.

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THE COURT: All right. Anybody want to come back tomorrow and do the closing arguments?

MR. LINDEMANN: Unfortunately I've got to be -- or fortunately I got to be in front of Judge -- I better not use the word unfortunately on the record. Your Honor, I would be happy to present closing arguments in writing, either as a proposed order or as a brief or however you prefer to get it. But ---

THE COURT: Mr. Lark, what's your pleasure?

MR. LINDEMANN: I would like that opportunity to at least -- whether it's in the form of a proposed order or a form of a short summary of what I believe the evidence shows. I would appreciate having the opportunity to do that.

MR. LARK: I'm not necessarily opposed to that, unless he -- I'm having some sort of block about who would be closing first today. And so, if it's me or if it's him ---

THE COURT: I think it's him.

MR. LINDEMANN: I'm happy to go first.

MR. LARK: If he wants to submit something, you know, for closing argument, then I would like time to respond to it since it's in writing that we're talking about.

THE COURT: Well, you can do it orally. I'll be glad to stay here and let you do that. We are -- what is it, 4:40 -- 5:40, good gracious. 5:40, which I -- that's fine. We can be here until 10:00 o'clock if you'd like. I think Captain Hughes is about ready to call it quits.

MR. LINDEMANN: Captain Hughes does need to probably step out.

THE COURT: But if you want to do oral arguments, that's fine. If you would like to do a brief in lieu of final argument ...

MR. LINDEMANN: Just given the hour. And I know Mr. Gore, as well, is missing his vacation for this week. So, I don't want to keep him here any longer either. If it's fine with Your Honor, I mean, just to put something in writing to you.

THE COURT: All right. How long would you need for yours?

MR. LINDEMANN: I have a very big brief due by Friday. If I could have until next Monday, so I have the weekend to do it.

MR. LARK: I thought he was going to say by in the morning. I'm okay with that. And then I'd like the same number of days ---

THE COURT: Well, what does that work out to? I'll tell you what I would do, just give you 10 days and you, Mr. Lark, 10 days after receiving his.

MR. LARK: Okay. Ten days from today?

THE COURT: Ten days from today would be ---

MR. LARK: The 11th?

THE COURT: The 11th.

MR. LINDEMANN: That'll be fine. And what I envision doing, Your Honor, and I hope this is fine, is not just address the facts, but also the legal issues. I know the issue has come up as to whether or not the particular statute dealing with holding cargo with a personal property means personal property or, you know, they're trying to say it's commercial property. I have some statutes in case law to hand up to Your Honor on that. I mean, if that's okay with Your Honor to go ahead and address the legal issues as well.

THE COURT: Sure. That's fine.

MR. LARK: I'm just -- so I'll know to do something with my 10 days. Is it going to -- are you going to call it a closing argument?

THE COURT: We can call it a brief.

MR. LINDEMANN: Okay.

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THE COURT: That's fine.

MR. LINDEMANN: Post trial brief?

THE COURT: Post trial brief.

MR. LARK: And may I confirm? Then the 10 days would be August 21st? I don't know what day of the week that is.

THE COURT: August 11th for Mr. Lindemann, August 21st for you. If any one of those days is a weekend ...

MR. LINDEMANN: Go to the next Monday.

THE COURT: Go to the next Monday, yes, sir.

MR. LINDEMANN: Thank you, Your Honor. I appreciate it.

THE COURT: And thank you. I appreciate your ---

MR. LINDEMANN: And thank you for making the time for us today.

THE COURT: Well, I appreciate your spending the time with me. This has been a very interesting ---

MR. LINDEMANN: They raise a great point, Your Honor. Do I have the option to reply within, like, say a couple of days of getting his? I mean, since I have the burden of proof.

THE COURT: We'll give you five days to reply.

MR. LINDEMANN: Five days to reply. Thank you.

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THE COURT: So, the 26th. Again, with the weekend rule.

MR. LINDEMANN: Understand.

THE COURT: Okay. All right. We're adjourned.

(There being nothing further, the administrative hearing concluded on Tuesday, August 1, 2017 at 5:47 p.m.)

CERTIFICATE

This is to certify that the within hearing consisting of five hundred nine (509) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenotype with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on March 27, 2018.

Nadine A. Garrett
Court Reporter

Notary Public for South Carolina
My Commission Expires: August 16, 2026

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Wayne's Automotive Center, Inc., Petitioner, v. South Carolina Department of Public Safety, Respondent.	Docket No. 16-ALJ-_____ **PETITION FOR CONTESTED CASE HEARING AND MOTION FOR TRO AND INJUNCTIVE RELIEF WITH MEMORANDUM OF LAW**

Re: Wayne's Automotive Center, Inc. Order Denying Reconsideration (Col. Oliver)
Notice Of Disciplinary Action Decision-Wayne's Automotive Center, Inc. (Cpt. Hughes)

Petitioner hereby submits its Request For Contested Case Hearing And Motion For Temporary Restraining Order (TRO) and Injunctive Relief with Memorandum of Law. Petitioner is being irreparably harmed through imposition of a 120-day suspension from Respondent's Wrecker Rotation List (Rotation List), scheduled to begin on Monday, December 12th, resulting from issuance of Respondent's "final agency action" order, received December 7th **Exhibits A and B.**[1]

Petitioner is a South Carolina corporation, which--through its Registered Agent, Walter Jeffry

[1] Petitioner's composite **Exhibit C** is a copy of the set of legal issues and authorities proffered to Colonel Oliver in support of its positions before Respondent and in support of its request for a contested case proceeding, TRO, and injunctive relief herein.

Exhibit D is a copy of the SC Court Of Appeals Order, as signed by Judge Geathers and entered December 12, 2016, dismissing the appeal of Petitioner (as Appellant therein) and not considering its Petition For Writ of Superseadeas, filed and served December 9th after Respondent would not consent to a stay of imposition of the suspension. Petitioner will continue to suffer irreparable harm if its suspension is imposed, beginning December 12th, and continued during this proceeding. Proper circumstances exist for the Court to issue a TRO and Temporary Injunction with nominal security required, as discussed herein.

While Petitioner as Appellant before the Court of Appeals was mindful of the facial-as applied challenge distinction and it perceived the appeal as a *facial challenge* to the constitutionality of a regulation and statute at least in part, Judge Geathers for the Court of Appeals by his Order has disagreed and considered it an as-applied challenge. *See Travelscope LLC v. South Carolina Department Of Revenue*, 391 S.C. 89, 705 S.E. 2d 28, 38-39 (2011). Therefore, Petitioner is pursuing the instant course of action without waiving any rights or interests.

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Corbett--operates an automotive service center, including towing and recovery operations, at its facilities located at 1997 Richland Avenue East, Aiken, SC 29801. Mr. Corbett is also currently serving as President of the Towing And Recovery Association Of South Carolina (TRASC). Petitioner has been in business for over 30 years, has over 30 employees, and has significant investments in towing and recovery equipment in use and at stake herein.

Respondent South Carolina Department of Public Safety (SCDPS) has three Divisions, including the Highway Patrol Division. SCDPS Director Leroy Smith is responsible for administration of its Divisions, and Defendant South Carolina Department of Public Safety is located in Richland County at 10311 Wilson Boulevard, in Blythewood, SC 29016.

In support of this Petition for a contested case hearing and administrative review, Petitioner would respectfully show:

1. On February 9, 2016, Petitioner's name came to the top of the Rotation List to be summoned by the Highway Patrol to respond to a tractor trailer with cargo owned by Premier Transportation that had overturned on Interstate 20 near the South Carolina-Georgia border, categorized as a Class C (heavy duty) tow and recovery operation, to assist Premier Transportation (Premier). Petitioner did so and issued an initial invoice to Premier (**Exhibit B (2)**) that was lowered and paid in full by Premier to Petitioner in early March (***Id.*** **(B) (3)** and **Exhibit C (Enclosure 2)**).

2. The parties with property interests had mutually resolved all issues over a month prior to issuance by the Respondent of the Notice of Proposed Disciplinary Action herein, dated April 25, 2016 (**Exhibit B (5)**). Despite such resolution, Respondent nevertheless issued that Notice, based solely on a complaint emailed to Highway Patrol Division staff (Lt. King and Captain Hughes) and others—but excluding Petitioner or its staff--by Robert (Bob) Watson, received February 19, 2016, which Petitioner received only after making a FOIA request for it. **Exhibit B (3)**. As it shows, Mr. Watson represented himself as President of Recovery Resolution Specialists and not an insurance

adjustor for Sentry Insurance Company, which was Premier's carrier, and had no underlying property interests concerning the matters. Despite this fact, Respondent violated the South Carolina Constitution, its own Regulation, and related statutory provisions by pursuing this matter and imposing a 120-day suspension of Petitioner from the Rotation List to commence December 12, 2016, absent this Court granting the relief requested herein to halt such suspension during appeal(s). **Exhibits B and A.**

3. Respondent through its actions and inactions violated the terms of the Rotation List and Reg. 38-600 and statutory provision enabling implementation of that Regulation, as shown in:

(a) reliance to discipline Petitioner on an email complaint by Bob Watson, who had no standing, since he was neither a party with an interest nor an owner's designee per Reg. 38-600 (C) (6);[2]

(b) failure to provide Petitioner with a copy of the complaint, as required by that same subsection prior to issuance of its Notice of Proposed Disciplinary Action about the dispute;

(c) failure to acknowledge the complaint was resolved and, therefore, moot and not subject to any exception;

(d) issuance of a defective Notice of Proposed Disciplinary Action, Disciplinary Decision, and denial of Petitioner's internal appeal;

(e) application of Reg. 38-600 provisions so as to utilize unlawful binding norms and improper evidentiary standards, such as shifting the burden of proof to Petitioner to prove innocence rather than Respondent to prove guilt, and failing to enact a Wrecker Rotation Disciplinary Policy "setting out the procedures for enforcing this regulation" in Reg. 38-600 (D) (2);

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[2] *Accord*, **Exhibit C**, West Virginia PSC Enclosures, wherein its legal staff expressed concern Watson had no standing since he had no personal stake or underlying property interests. In that situation, Watson got out of the case, Sentry Insurance reps got it, and the parties resolved the dispute at mediation. *Cf.*, S.C Code Ann. §23-6-20, referencing, in part, transfer of SC PSC transportation ratemaking authority as part of creation of SCDPS.

(f) raising through its attorneys a new disciplinary matter (Herron) not known to Petitioner or its undersigned attorney, involving an alleged unnecessary winching tow and overcharge by Petitioner at the conclusion of the August hearing herein outside the hearing room in an effort to induce settlement of both incidents, then returning to the hearing room for *ex parte* discussions with Highway Patrol personnel involved, including presiding officer, Captain Grice, investigator, Lt. King, and administrative officer, Captain Hughes; and

(g) such other rights and interests Petitioner has, as shown herein and in attached **Exhibits A through C**.

4. Petitioner has, thus, been injured and is thereby entitled to recovery of actual damages, all expenses of litigation, and attorney's fees, as well as a declaratory judgment[3] that Respondent has improperly developed and applied its Rotation List and the rates thereunder; and Reg. 38-600 and/or such List and Reg. have been improperly applied or are otherwise invalid, deficient, or unconstitutional. Respondent's violation of provisions of its own regulation also constitute negligence *per se* and gross negligence against Petitioner in accordance with the common law and South Carolina Tort Claims Act, §15-78-10 *et seq.*[4]

5. Furthermore, Respondent's hearing process and procedure are patently deficient. No court reporter transcribes testimony, no witnesses are sworn, no subpoena power is available, Highway Patrol personnel do not testify or offer comments at the hearing, no Highway Patrol personnel may be questioned, and the same personnel are making the prosecution and adjudication of such disciplinary

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[3] Petitioner is not necessarily stating this Court can provide for recovery of damages or render a declaratory judgment herein. However, Petitioner is including this in order to preserve its rights to pursue such recovery and judgment.

[4] The South Carolina Supreme Court has also held that violation of statutory provisions is negligence *per se* and may be gross negligence, so that issue and the issue of punitive damages in a non-State party case go to the jury for its determination. *See Wise v. Broadway*, 315 S.C. 273, 433 S.E.2d 857 (1993).

matters. Such process and procedure violate proper implementation of the Rotation List, Reg. 38-600, Article I, §§ 3, 22, and 23 of the South Carolina Constitution, the South Carolina Administrative Procedures Act (APA) in S.C. Code Ann. § 1-23-310 *et seq.*, the Declaratory Judgment Act in S.C. Code Ann. § 15-53-10 through -140, Rule 57, *SCRCP*, and case authorities, concerning procedural and substantive Due Process violations in particular, cited in **Exhibit C**. Furthermore, the complainant, Bob Watson, was not even present at the hearing (sic).

6. Petitioner, therefore, also seeks the Court to determine and declare the actions and inactions of Respondent in failing to provide Petitioner with the Watson email complaint, notify and allow Petitioner to be present and heard violate the above Due Process Clauses of the South Carolina Constitution, in that they deprived Petitioner of property without affording Petitioner the procedural and substantive due process rights, as provided by such constitutional provisions as well as their own representations to Petitioner and further to determine and provide Petitioner proper monetary relief for such violations. Under the particular circumstances, the Court should otherwise declare Reg. 38-600 and S.C. Code Ann. § 23-6-20, and related statutory provisions unconstitutional to the extent they directly and/or indirectly take away or restrict Petitioner's rights to Due Process, since the General Assembly cannot lawfully do this.[5] Provision by this Court of the TRO and injunctive relief sought herein is necessary and appropriate to achieve justice in this situation.

7. Petitioner moves and this Court should also provide injunctive relief to enjoin Respondent from arbitrarily imposing and continuing to impose from December 12th a 120-day suspension from its Rotation List. The standards for granting a temporary restraining order or temporary injunction are well established and are as follows: (1) irreparable harm if the injunction is not granted; (2) the relative harm to the plaintiff of the injunction is not granted as compared to the relative harm to the defendant if the injunction is granted; (3) plaintiff's likelihood of success on the merits; and (4) the

[5] *See* n. 3, *supra*.

public interest. Professor James F. Flanagan, *South Carolina Civil Procedure, Second Edition, at 508 (1996).*

8. Irreparable harm means that an injunction is reasonably necessary to protect the plaintiff's rights pending the litigation. *Johnson v. Phillips, 315 S.C. 407, 433 S.E.2d 895 (Ct. App. 1993) rev'd on other grounds, 318 S.C. 453, 458 S.E.2d 427 (1995).* Irreparable injury implies that there exists no adequate remedy at law. *Van Robinson Ins. Agency v. Harleyville Mut. Ins. Co., 272 S.C. 127, 249 S.E.2d 744 (1978).*

9. As to its showing of irreparable harm, Petitioner provides this Petition with Verification and Affidavit of its registered agent and operator, Walter Jeffry Corbett, concerning the facts and matters hereinabove. Furthermore, such showing is even more compelling, if this Court determines that the APA does not provide for the assessment of civil penalties against an agency found to be in violation of its provisions. *See, Marietta Garage, Inc. v. South Carolina Department Of Public Safety,* 352 S.C. 95, 572 S.E. 2d 306 (Ct. App. 2002).

10. The harm to Respondent is nonexistent, based upon its Orders herein. **Exhibits A and B.**

11. Petitioner is likely to prevail on the merits. Respondent through its actions and inaction described above has acted outside its scope of authority, which it cannot do, and injured Petitioner. *Triska v. Department of Health and Environmental Control,* 292 S.C. 190. 355 S.E. 2d 531 (1987) and *Stono River Environmental Protection Association v. South Carolina Department of Health and Environmental Control,* 305 S.C. 90, 406 S.E. 2d 340 (1991). "(A) public entity cannot materially alter or add to law in any fashion which circumvents legislation." *Armstrong v. School District Five of Lexington and Richland Counties,* 26 F. Supp. 2d 789 (D.S.C. 1998), *citing S.C. Tax Commission v. S.C. Tax Board of Review,* 278 S.C. 556, 299 S.E.2d 489 (1983). *Accord, Bethel Methodist Episcopal Church v. City Of Greenville,* 211 S.C. 442, 45 S.E. 2d 841, 844-45 (1947), applying the abuse of power rule against a municipality. Respondent has thereby further violated Petitioner's

rights of procedural and substantive Due Process. As to procedural Due Process violations, *see, e.g., Daniels v. Williams*, 474 U.S. 327 (1986). As to substantive Due Process violations, *see, e.g., Worsley Co., Inc. v. Town of Mount Pleasant*, 339 S.C. 51, 528 S.E.2d 657, 660 (2000), *and Daniels, supra.*

12. Under the circumstances, the Court should require only a nominal bond of $250, consistent with Rule 65, SCRCP.

WHEREFORE, Petitioner requests that the Administrative Law Court conduct a contested case evidentiary hearing after granting its Motion For TRO at the outset and injunctive relief during the pendency of this proceeding and, thereafter, issue its order reversing the decisions of Respondent to suspend Petitioner from the Highway Patrol Wrecker Rotation List and providing all other available relief to Petitioner.

AUSTIN & ROGERS, P.A.

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Email: marcusgore@scdps.gov
South Carolina Department of Public Safety
10311 Wilson Boulevard
P.O. Box 1993
Blythewood, SC 29016

000798

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Wayne's Automotive Center, Inc., Petitioner, v. South Carolina Department of Public Safety, Respondent.	Docket No. 16-ALJ-_____ **PETITION FOR CONTESTED CASE HEARING AND MOTION FOR TRO AND INJUNCTIVE RELIEF WITH MEMORANDUM OF LAW**

VERIFICATION AND AFFIDAVIT

Sworn to before me, Walter Jeffry Corbett, who says and deposes that the affiant knows the facts in the foregoing Petition For Contested Case Hearing and Motion For TRO and Injunctive Relief with Memorandum of Law to the South Carolina Administrative Law Court, as stated, to be true of his own knowledge, except as to matters stated or information and belief, and as to that as to those matters he believes them to be true.

Walter Jeffry Corbett

SWORN to and subscribed before me
this 14 day of December 2016.
Notary Public for South Carolina
My Commission Expires: 9/1/2025

via certified mail
Rec'd 12/07/16
Rej. (16145)

South Carolina Department of Public Safety

S.C. Highway Patrol

EXHIBIT
A

December 1, 2016

Raymon E. Lark, Jr., Esq.
Austin & Rogers, P.A.
508 Hampton Street, 3rd Floor
Columbia, South Carolina 29201

RE: Wayne's Automotive Center, Inc.

Dear Mr. Lark:

I am in receipt of your letter dated October 21, 2016 in which you have asked the South Carolina Department of Public Safety ("SCDPS") to reconsider a suspension which was previously imposed on Wayne's Automotive Center, Inc. ("Wayne's") for violations of Section 38-600 of the South Carolina Code of State Regulations.

After having carefully considered the grounds raised in your appeal, I concur with the findings and conclusions made by Captain C. B. Hughes and affirm his decision to suspend and remove Wayne's from the South Carolina Highway Patrol Rotation List ("Rotation List") for a period of one hundred twenty (120) days. The first part of the suspension shall begin on December 12, 2016, and run through December 31, 2016. Additionally, if Wayne's applies for and obtains approval for placement on the 2017 Rotation List, the suspension will extend until April 11, 2017. If Wayne's does not apply or receive approval for placement on the 2017 Rotation List, the suspension will extend into any subsequent calendar year in which Wayne's applies for and is approved to be on the Rotation List until all days of the suspension period are served.

Insofar as this suspension applies to all South Carolina locations operated by Wayne's, it will not receive any Rotation List calls in any county during this period. Per SCDPS policy, this disciplinary measure may be used to support subsequent disciplinary action and shall become a part of the permanent SCDPS file on Wayne's.

This is the final agency action for purposes of administrative review. Should you wish to pursue an appeal of this matter, you may seek judicial review in a court of competent jurisdiction.

Colonel Michael R. Oliver
South Carolina Highway Patrol

Rec'd 09/29/16
Rely (16145)

South Carolina Department of Public Safety
S.C. Highway Patrol

EXHIBIT
B

September 26, 2016

VIA CERTIFIED MAIL

Raymon E. Lark, Jr., Esq.
Austin & Rogers, P.A.
508 Hampton Street, 3rd Floor
Columbia, SC 29201

RE: Notice of Disciplinary Action Decision – Wayne's Automotive Center, Inc.

Dear Mr. Lark:

By letter dated April 25, 2016, the South Carolina Highway Patrol ("SCHP") notified Wayne's Automotive Center, Inc. ("Wayne's") of proposed disciplinary action arising out of a tow performed by Wayne's on February 9, 2016. A hearing on the matter was held at the South Carolina Department of Public Safety ("SCDPS" or "Department") on August 8, 2016. The Department's decision in this matter is set forth below.

FINDINGS OF FACT

1. On November 25, 2015, Pamela Belton signed the SCHP Wrecker Rotation Fee Schedule on behalf of Wayne's establishing the Troop Seven wrecker rotation fees for 2016 and containing other provisions governing Rotation List tows (set forth more fully in the Conclusions of Law herein). This document is attached hereto as Exhibit "1."

2. On February 9, 2016, Wayne's received a routine rotation call from SCHP requesting a Class "C" wrecker to tow a tractor-trailer belonging to J.H.O.C., Inc. d/b/a Premier Transportation ("Premier") that had overturned on I-20 near the South Carolina/Georgia border.

3. On February 10, 2016, Wayne's issued an invoice to Premier for the tow and clean-up totaling $69,017.19 ("First Invoice"). The First Invoice reflected that Wayne's utilized a heavy duty wrecker for 21 hours at a rate of $436.00 per hour, a rotator for 21 hours at a rate of $436.00 per hour, and a heavy duty tractor-trailer for 13 hours at the rate of $436.00 per hour. The First Invoice also contained numerous other labor and equipment charges reflecting various rates and hours expended. This document is attached hereto as Exhibit "2."

4. Robert Watson of Recovery Resolution Specialists, Inc. ("RRS"), subsequently contacted SCHP to express concerns about the amounts shown on the First Invoice and the difficulty he was having obtaining a release of the cargo.

5. SCHP Lieutenant N. W. King reviewed the First Invoice and contacted W. Jeffery Corbett, the owner of Wayne's, on February 17, 2016, to discuss the fees on the First Invoice and release of the cargo.

6. Mr. Corbett advised Lt. King during their conversation that some of the equipment and labor used to complete the tow and clean-up was furnished by two companies other than Wayne's, one of which was owned by his wife, Sherry Corbett.

7. Lt. King then advised Mr. Corbett that labor and equipment provided by a third party needed to be billed on a separate invoice. Mr. Corbett agreed to issue a revised invoice showing only those services performed by Wayne's and to separately invoice subcontracted labor and equipment provided by third parties. Lt. King also explained that Wayne's was obligated to release the cargo to its owner pursuant to S.C. Code § 56-5-5635,[1] and Mr. Corbett agreed to do so.

8. Despite Mr. Corbett's assurances to Lt. King, Wayne's did not issue a corrected invoice, provide separate invoices for third-party services, or release the cargo. Shortly thereafter, Mr. Watson submitted a written complaint with SCHP on February 19, 2016 ("Complaint"). The Complaint is attached hereto as Exhibit "3."

9. Lt. King called Mr. Corbett to discuss why Wayne's had not followed through on the foregoing matters discussed during the previous February 2016 conversation. Mr. Corbett informed Lt. King that Wayne's would not in fact be taking the referenced actions and that Wayne's would accept whatever consequences might result.

10. By check dated March 4, 2016, Premier paid a total of $48,633.19 to Wayne's, which apparently accepted this amount as payment in full for services provided. A copy of this check is attached hereto as Exhibit "4."

11. On April 25, 2016, a Notice of Proposed Disciplinary Action ("Notice") signed by SCHP Cpt. A. K. Grice was sent to Wayne's notifying it that SCHP had concluded an investigation arising out of the February 9, 2016 tow and determined that the violations identified therein had been substantiated by the Department. Among other things, the Notice provided that (1) the cargo in Premier's tractor-trailer was owned by Tractor Supply Company; (2) pursuant to the Fee Schedule executed by Wayne's in November 2015, Wayne's was permitted to charge $436.00 per hour for a Class "C" tow; (3) the First Invoice reflected that Wayne's utilized a heavy duty wrecker for 21 hours at a rate of $436.00 per hour to complete the tow; and (4) Wayne's billed for a rotator (21 hours) and a heavy duty tractor-trailer (13 hours) at the rate of $436.00 per hour in addition to the aforementioned heavy duty wrecker. A copy of the Notice is attached hereto as Exhibit "5."

12. On May 13, 2016, Mr. Corbett delivered a letter to the Department requesting a hearing.

13. On July 1, 2016, Wayne's provided the Department a document that appeared to be a revised invoice containing charges totaling $48,633.19 ("Second Invoice"), which was the sum paid by Premier in March 2016. The Second Invoice reduced the First Invoice's charge for

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[1] See S.C. Code Ann. § 56-5-5635(F) (governing tows performed at the direction of law enforcement and providing that "[t]he proprietor, owner, or operator of [a] towing company, storage facility, garage, or repair shop must release any personal property that does not belong to the owner of the vehicle to the owner of the personal property").

heavy duty wrecker time to 12 hours (at $436/hour), but it left the $436/hour charges for rotator and tractor trailer times (21 hours and 13 hours, respectively) unchanged from the First Invoice. The Second Invoice also contained numerous other labor and equipment charges reflecting various rates and hours expended. This document is attached hereto as Exhibit "6."

14. A hearing at the Department's Blythewood, South Carolina headquarters occurred on August 8, 2016.

15. At the hearing, Wayne's raised a number of legal arguments and referred to certain documents that it had provided previously to SCDPS via e-mail. Wayne's maintained chiefly that (1) Mr. Watson lacked standing to submit the Complaint; (2) Wayne's was denied due process; (3) the issue giving rise to the Complaint was rendered moot; and (4) the Department did not comply with South Carolina Code of State Regulations § 38-600 ("Regulation" or "Reg."), the South Carolina Constitution, or the Administrative Procedures Act ("APA").

16. Counsel for Wayne's submitted e-mails before and after the hearing[2] in which legal challenges were made on several grounds to the disciplinary action contemplated by the Notice and to the Department's processes associated with Rotation List disciplinary action in general. Counsel for Wayne's also submitted requests under the South Carolina Freedom of Information Act seeking the Complaint and other records associated with the February 2016 tow, and such records were furnished to Wayne's before the hearing.

17. At no time did Wayne's provide SCDPS with (1) an invoice showing only the work performed by Wayne's in this matter or (2) separate invoices reflecting labor or equipment being provided by any other company in connection with the tow, despite Mr. Corbett's representation to Lt. King that two other companies were involved.

18. Wayne's previously received a 60-day suspension from the Rotation List in 2015 for failing to abide by the Regulation in several particulars. A copy of the Department's July 30, 2015 decision (issued by Cpt. C. T. Stephens) imposing the suspension is attached hereto as Exhibit "7," and SCHP Colonel M. R. Oliver's September 22, 2015 denial of the subsequent appeal is attached as Exhibit "8."

CONCLUSIONS OF LAW

19. The law governing wrecker services utilized by SCDPS is found in Section 38-600 of the Regulation. In particular, Regulation 38-600(F)(2) mandates that all fees charged by wrecker services for Rotation List calls "shall be reasonable and not in excess of those rates charged for similar services . . . ." Additionally, Regulation 38-600(F)(2)(b) states that the "Troop commander will determine the reasonableness of the fees . . . ." Furthermore, "[f]ailure of any wrecker service to comply" with the Regulation "will result in disciplinary action in accordance with the South Carolina Department of Public Safety Wrecker Rotation Disciplinary Policy." Reg. § 38-600(D)(3).

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[2] E-mails were received by the Department on July 1 and 15, 2016, and August 5 and 12, 2016. The August 12th e-mail to the Department was after the August 8, 2016 hearing, but it was considered along with the others because the record was kept open for an additional five days following the hearing.

20. The maximum fees recoverable by wrecker services on the SCHP Rotation List for standard tows in each wrecker class are set annually, and each wrecker service must execute a corresponding fee schedule ("Fee Schedule") governing such fees for the upcoming calendar year. Fees for Rotation List tows cannot exceed the amounts shown on the Fee Schedule, and charging additional fees other than those shown on the Fee Schedule is prohibited.

21. Pursuant to the Fee Schedule executed by Wayne's in November 2015, Wayne's was permitted to charge $436.00 per hour for a Class "C" tow. The First Invoice reflected that Wayne's utilized a heavy duty wrecker for 21 hours at a rate of $436.00 per hour to complete the tow. However, Wayne's also billed for a rotator (21 hours) and a heavy duty tractor-trailer (13 hours) at the rate of $436.00 per hour. The Second Invoice reduced the charge for heavy duty wrecker time to 12 hours (at $436/hour), but it left the $436/hour charges for rotator and tractor trailer times (21 hours and 13 hours, respectively) unchanged. The hourly Class "C" rate set by the Fee Schedule is the maximum *total* hourly amount that may be charged for a wrecker service's performance of the tow/recovery itself—not a rate that can be charged for each vehicle or piece of equipment on the scene, as permitting charges to be stacked in such a manner would effectively negate the purpose of the Fee Schedule's "catch-all" rate.[3] Therefore, the charges for the rotator and heavy duty tractor-trailer on both the First Invoice and Second Invoice were improper.

22. The Fee Schedule does not set a separate Special Operations fee for a Class "C" tow, but it does allow a wrecker service to "recover the actual cost of rented/subcontracted equipment or labor necessary to accomplish the job." It goes on to add that "[p]roof of these actual costs in the form of an itemized invoice or receipt from the third party providing such equipment or labor **must accompany the tow bill.**" (Emphasis added.)

23. Both the First Invoice and the Second Invoice contained numerous other itemized fees that Wayne's was not permitted by the Fee Schedule to charge. To the extent that some or all of the other itemized fees were purportedly for subcontracted labor or equipment, the Department has no record of them ever being separately invoiced by Wayne's as required. Hence, such charges were improper.

24. Wayne's has never disputed that the cargo was owned by an entity other than Premier, nor has it denied initially agreeing to release the cargo when first contacted by Lt. King. Wayne's later reneged on its commitment to release the cargo, and its behavior in this regard was manifestly unprofessional. Reg. 38-600(B)(8) (mandating that wrecker operators on the Rotation List "display professional behavior").

25. Wayne's argued that the Complaint should be disregarded because Mr. Watson allegedly (1) sought to use it as leverage in negotiating a reduction of the original amount Wayne's invoiced for the tow and (2) receives a commission based on how much of a reduction in tow bills he obtains on behalf of his clients. This argument is misplaced, as the Department's authority is limited to determining if a wrecker service has complied with applicable Rotation List requirements and, if not, imposing appropriate discipline. Therefore,

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[3] The Department is exploring changes to the Fee Schedule to allow wrecker services performing Class "C" tows to bill for additional labor/equipment, but the present matter is governed by the Fee Schedule executed by Wayne's in November 2015.

whatever factors may or may not have motivated Mr. Watson to submit the Complaint have no bearing on whether Wayne's engaged in conduct for which it could be disciplined.

26. Wayne's asserted that it should not have been subject to the proposed discipline set forth in the April 2016 Notice because the dispute in this matter was settled by payment of Premier's check for $48,633.19 in early March 2016, thereby rendering the Complaint moot. The Department disagrees. First, the subsequent acceptance of a reduced sum by Wayne's as payment in full for the tow does not cure the impropriety of the charges at the time they were first invoiced. The fact that a party may later correct violations brought to its attention does not deprive a government entity of the ability to take administrative action for such violations. See, e.g., Garris v. Gov'ing Bd. of the S.C. Reins. Facility, 319 S.C. 388, 391, 461 S.E.2d 819, 821 (1995) (rejecting argument that a statute affording a party an opportunity to "show compliance" prior to "the institution of agency proceedings" meant the party first had to be "provid[ed] an opportunity to correct deficiencies," and concluding that "showing compliance mean[t] showing that *at the time of the alleged violation* [the party] was in full compliance with the law") (emphasis added). Moreover, the First Invoice's deficiencies cannot be accurately said to have been "corrected" by the Second Invoice, as the latter contained (1) improper charges for the rotator and heavy duty tractor-trailer, (2) itemized fees not specifically authorized by the Fee Schedule, and (3) charges for labor or equipment that were required to be shown by separate invoice(s). To the extent that Wayne's still has not demonstrated that it can adhere to proper billing practices associated with Rotation List tows, its conduct in this regard could continue unless the Department addresses it accordingly. Byrd v. Irmo High School, 321 S.C. 426, 431, 468 S.E.2d 861, 864 (1996) (observing that an otherwise moot issue may be considered if "the issue raised is capable of repetition but evading review"). Thus, the Department's ability to administer disciplinary action in this matter was not rendered moot by Premier's March 2016 payment.

27. Wayne's contended that Mr. Watson's absence from the hearing constituted a denial of due process. The fundamental requirements of due process include notice, an opportunity to be heard in a meaningful way, and judicial review. S.C. Const. art. 1, § 22. However, "[d]ue process does not require a trial-type hearing in every conceivable case of government impairment of a private interest." Kurschner v. City of Camden Planning Comm'n, 376 S.C. 165, 171, 656 S.E.2d 346, 350 (2008). "Rather, due process is flexible and calls for such procedural protections as the particular situation demands." Kurschner, 376 S.C. at 172, 656 S.E.2d at 350. To the extent that Wayne's (1) availed itself of the opportunity to be heard on the merits pre-hearing (through submission of correspondence and other documents) and at the hearing following due notice thereof; (2) did not establish that it was substantially hindered in its ability to respond to the Notice as a result of Mr. Watson not being present; and (3) retains the right to seek judicial review in a court of competent jurisdiction once the Department's final disciplinary action is administered, Mr. Watson's absence from the hearing did not deny due process to Wayne's.

28. Furthermore, Wayne's offered no argument in support of how it maintained Mr. Watson could have been subpoenaed or otherwise compelled to travel to South Carolina to appear at the hearing. Information in the Department's records reflects that Mr. Watson does business at a North Carolina address, as acknowledged by Wayne's at the hearing. Moreover, public records available online from the North Carolina Secretary of State's Office (1) confirm that RRS is a North Carolina corporation; (2) identify Mr. Watson as the corporation's

president; and (3) list a North Carolina address for Mr. Watson individually.[4] Even if the Department's administrative hearing process for wrecker disciplinary matters purportedly authorized issuance of subpoenas, any such subpoena would not have been enforceable as to Mr. Watson. Vaught v. Nationwide Mut. Ins. Co., 250 S.C. 65, 74, 156 S.E.2d 627, 632 (1967) (recognizing that "a subpoena issued to an out of state witness would have been legally ineffective to compel the attendance of such witness at a trial in this State").

29. Wayne's contended that Mr. Watson lacked standing to initiate the Complaint and cited Youngblood v. S.C. Dep't of Soc. Servs., 402 S.C. 311, 741 S.E.2d 515 (2013), in support of its position. Standing is commonly understood as "a fundamental prerequisite to **instituting an action**" or a status that "confers a right **to sue** on a party." Youngblood, 402 S.C. at 317, 741 S.E.2d at 518 (emphasis added). In other words, standing requires a party *to a lawsuit* to show that it has a legally-recognized right to pursue *litigation*—not, as in this situation, to notify a state agency of a possible regulatory violation by a third party. Taken to its logical end, Wayne's seems to suggest that it can act with impunity so long as the person or entity reporting Wayne's for a possible regulatory violation would not have standing to initiate a lawsuit against it—even if, as in this matter, regulatory violations are uncovered by the Department as a result of the information received. Adopting the interpretation of standing put forth by Wayne's would lead to an absurd result, and the Department rejects it accordingly.

30. Wayne's maintained that Mr. Watson or "an owner of the property in question" was required to give it a copy of the Complaint under § 38-600(C)(6) of the Regulation. Section 38-600(C)(6) provides that if there is "a dispute between the vehicle owner or the vehicle owner's designee and the wrecker service regarding any *storage* fees or charges, the vehicle owner or the vehicle owner's designee must provide the wrecker service written notification of the dispute." (Emphasis added.) On its face, the cited provision is rather limited in scope—as confirmed by the wrecker service's obligation to "cease any *storage* charges that would otherwise accrue from the time the wrecker service receives written notification of the dispute until the dispute is settled." Reg. 38-600(C)(6) (emphasis added). Conversely, initiation of complaints and imposition of discipline are matters governed principally by another section of the Regulation. See Reg. 38-600(D) ("Complaints/Disciplinary Procedures"). Storage charges were not mentioned specifically in either the Complaint or the Notice. In any event, whether notice of a storage charge dispute was given by someone other than SCDPS does not prevent the Department from investigating and disciplining Wayne's for the regulatory violations identified herein.

31. Wayne's averred that the Department violated the South Carolina Constitution by serving as both the prosecutor and adjudicator in this matter. S.C. Const. art. 1, § 22 (prohibiting a person from being "finally bound by a judicial or quasi-judicial decision of an administrative agency" if "subject to the same person for both prosecution and adjudication"). However, the respective functions of the agency employees involved were not concentrated in any one person: Lt. King conducted the investigation, Cpt. Grice issued the Notice, and the undersigned issued the decision herein setting forth the discipline imposed. Additionally, a different SCDPS official—Col. M. R. Oliver—would rule on any appeal of this decision that Wayne's may wish to pursue, and his ruling would constitute the final agency action for purposes of administrative review. Thus, no constitutional concern is presented. See Baldwin

[4] See https://www.sosnc.gov/Search/profcorp/9894121.

v. S.C. Dep't of Hwys. and Pub. Transp., 297 S.C. 232, 234, 376 S.E.2d 259, 260 (1989) (acknowledging that due process does not prohibit an agency from both prosecuting and adjudicating when the adjudicatory role is performed by "other persons within the same agency who did not participate in investigation or prosecutorial capacities").

32. The Department's July 30, 2015 decision notifying Wayne's of its 60-day suspension from the Rotation List provided that "this disciplinary measure may be used to support subsequent disciplinary action." It follows that Wayne's was on notice based on its prior suspension that future regulatory violations could result in disciplinary action and that its disciplinary history could be considered by SCDPS in determining the discipline to be imposed in such matters.

DECISION

Having considered the arguments made by Wayne's and the entire record, I conclude the following disciplinary measure is warranted in accordance with Regulation 38-600 and SCDPS policy: Suspension and removal of Wayne's from the SCHP Wrecker Rotation List for a period of one hundred twenty (120) calendar days. In reaching this decision, the Department took into account that Wayne's was disciplined previously for its noncompliance with the Regulation in 2015.

The first part of the suspension shall begin on October 10, 2016 and run through December 31, 2016. Additionally, if Wayne's applies for and obtains approval for placement on the 2017 Rotation List, the suspension will extend until February 7, 2017. If Wayne's does not apply or receive approval for placement on the 2017 Rotation List, the suspension will extend into any subsequent calendar year in which Wayne's applies for and is approved to be on the Rotation List until all days of the suspension period are served.

Insofar as this suspension applies to all South Carolina locations operated by Wayne's, it will not receive any SCHP Rotation List calls in any county during this period. Per SCDPS policy, this disciplinary measure may be used to support subsequent disciplinary action and shall become a part of the permanent SCDPS file on Wayne's.

If you wish to appeal this decision, the Department must receive a written request containing the grounds for such an appeal no later than the tenth calendar day following your receipt of this letter. Such a request must be addressed to: Col. M. R. Oliver, South Carolina Highway Patrol, P.O. Box 1993, Blythewood, South Carolina 29016.

Capt. C B Hughes

Cpt. C. B. Hughes
Commander, SCHP Troop Ten
Administrative & Regulatory Compliance Unit

South Carolina Department of Public Safety
S.C. Highway Patrol

South Carolina Highway Patrol
2016 Wrecker Rotation Fee Schedule

In accordance with Section 38-600 of the South Carolina Code of State Regulations, the Department of Public Safety publishes a yearly Fee Schedule outlining the maximum allowable fees for each class of wrecker on the SCHP Wrecker Rotation List. The reasonableness of fees on the Fee Schedule is determined by the Highway Patrol on a comparative basis. The fees permitted for calendar year 2016 are listed below:

2016 MAXIMUM ALLOWABLE FEES FOR ROTATION LIST CALLS

CLASS	STANDARD TOW	SPECIAL OPERATIONS	STORAGE
A	$204.00 flat rate	$118.00 per hour	$30.00 per day
B	$279.00 flat rate	$174.00 per hour	$39.00 per day
C	$436.00 per hour	* no fee will be set	$53.00 per day

Standard Tow: A standard tow is defined as responding to the scene, hooking up the vehicle, performing a general clean up if the call involves responding to a collision scene and providing responsible assistance to the vehicle occupants. In the absence of special operations as defined below, the maximum fee for a Class A or B tow is the flat rate listed above. Fees for Class C tows are billed at an hourly rate.

Special Operations: Special operations are operations involving the process of uprighting an overturned vehicle or returning a vehicle to a normal position on the roadway which requires the use of auxiliary equipment due to the size or location of the vehicle and/or the recovery of a load which has spilled, or the off-loading and reloading of a load from an overturned vehicle performed to right the vehicle. A wrecker service must receive confirmation on-scene at the time of the tow from the investigating Trooper or an SCHP supervisor that special operations are required to perform the tow in order to recover such fees.

* Although no Special Operations fee is set for Class C tows, a wrecker service may recover the actual cost of rented/subcontracted equipment or labor necessary to accomplish the job. Proof of these actual costs in the form of an itemized invoice or receipt from the third party providing such equipment or labor must accompany the tow bill.

If services beyond those for which the wrecker was dispatched are performed (e.g., hazardous waste cleanup; transportation of vehicle, cargo, or occupants(s) to an agreed upon location other than the one required by the Regulation), those services must be billed on a separate invoice.

Storage: Fees begin 12 hours after a vehicle is secured on the wrecker service premises and terminate when the vehicle owner or owner's designee offers to pick up the vehicle and pay the legitimate accrued charges.

A COPY OF THIS FEE SCHEDULE SHALL BE KEPT IN EACH WRECKER AT ALL TIMES AND MUST BE PRESENTED UPON REQUEST TO ANY PERSON FOR WHOM TOW SERVICES ARE PROVIDED, HIS OR HER AGENT, OR ANY DEPARTMENT OF PUBLIC SAFETY EMPLOYEE. ANY COMPLAINTS MUST BE IN WRITING AND FORWARDED TO THE SCHP TROOP COMMANDER.

NOTE: This fee schedule lists the maximum fee that may be charged for each class of wrecker. A lesser fee may be charged at any time in the wrecker service's discretion.

Courtesy - Efficiency - Service

POST OFFICE BOX 1993, 10311 WILSON BLVD., BLYTHEWOOD, SOUTH CAROLINA 29016

000808

EXHIBIT

outh Carolina Highway Patro

Wrecker Rotation Inspection

Approved Fees:

Class	Standard Towing	Special Operations	Storage (per day)
☒ A	$ 264.00	$ 118.00	$ 50.00
☒ B	$ 279.00	$ 174.00	$ 37.50
☒ C	$ 432.00	$ NONE / NO FEE SET	$ 53.00

Inspector's Comments:

After my inspection, I find this service to be:

☒ **Approved** – Business is in compliance with Wrecker Regulations and is being **recommended** for the rotation list.

☐ **Not Approved** – Business is not in compliance with Wrecker Regulations and is **NOT recommended** for the rotation list. Service was notified in writing as to what deficiencies were identified.

Inspector's Signature: _____ Date: 11/25/15

Wrecker Owner's Acknowledgment of Receipt and Compliance if approved:

I do hereby affirm that I have a copy of South Carolina Code of Regulations 38-600 governing rotation list wreckers. I am familiar with its contents and do hereby agree to fully comply with it in order to remain on the rotation list. I understand that any violation of the Wrecker Regulations may result in disciplinary action pursuant to S.C. Code of Regulations 38-600(D) and SCDPS Policy 200.19 Wrecker Rotation Disciplinary Policy. I further agree that if I relocate or change equipment, insurance carriers, telephone numbers or employees, or for any reason become unavailable for service for an extended period of time, I will notify the appropriate Troop Commander in writing. The information I have furnished is true and correct to the best of my knowledge. My business has been inspected and approved this 25th day of November, 20 15.

Print Name Pamela Beltran Signature Pamela Beltran

Key to Inspection Codes:
C = Compliant **NC = Not in Compliance** **NA = Not Applicable**

Form SCHP-A-007 revised July 2014

South Carolina Department of Public Safety

S.C. Highway Patrol

On behalf of the wrecker service named below, I acknowledge that I have received and agree to be bound by the South Carolina Highway Patrol 2016 Wrecker Rotation Fee Schedule and the Department of Public Safety's Wrecker Rotation Disciplinary Policy. Further, I certify that I am authorized to bind the wrecker service named below to the terms of this Fee Schedule and the Department of Public Safety's Wrecker Rotation Disciplinary Policy.

Pamela A Beltran — Pamela A Beltran — 11/25/15

Owner/Representative Name (Printed) | Owner/Representative Signature | Date

Vargas Automotive Center Inc

Name of Wrecker Service

Wayne's Automotive and Towing Center

SCIM
Spill Containment Incident Management
1997 Richland Avenue East
Aiken, SC 29801

Invoice

Date	Invoice #
2/10/2016	504462

Bill To

J. H. O. C., INC.
Premier Transportation
323 CASH MEMORIAL BOULEVARD
FOREST PARK GA 30297
282577

P.O. No.	Terms	Project
	Due Upon Receipt	

Description	Qty	Rate	Amount
60 Ton Rotator HD4 used for upright winching both tractor and trailer	21	436.00	9,156.00
Class C Heavy Duty Truck HD5 used for upright winching both tractor and trailer	21	436.00	9,156.00
Class C Heavy Duty Tractor with Trailer used for Transfering Cargo and storing HD3/RECOVERY TRAILER	13	436.00	5,668.00
Recovery Supervisor JC	21	175.00	3,675.00
Recovery Technician BH	21	175.00	3,675.00
Recovery Technician KJ	21	150.00	3,150.00
Recovery Technician JH	13	150.00	1,950.00
Recovery Technician BR	8	85.00	680.00
Recovery Technician WB	10	150.00	1,500.00
Response Unit used for transporting supplies, snatch blocks, oil dry, absorbents, booms, back deck blower, brooms, shovels, etc.	20	175.00	3,500.00
Air Cushion Recovery	2	4,000.00	8,000.00
Transfer Cargo from scene to loading dock Containment Unit (this includes reloading an offsite facility)	1	750.00	750.00
Labor Hours for transferring from the scene and repackaging WB	9	90.00	810.00
Labor Hours for transferring from the scene and repackaging JH	7	50.00	350.00
Labor Hours for transferring from the scene and repackaging WRH	1.5	50.00	75.00
Labor Hours for transferring from the scene and repackaging JS	7	50.00	350.00
Labor Hours for transferring from the scene and repackaging PW	3.5	50.00	175.00
Labor Hours for transferring from the scene and repackaging MR	7	50.00	350.00
Labor Hours for transferring from the scene and repackaging KS	3.5	50.00	175.00
Labor Sublet from Verns (3 Guys used for transferring and repacking)	1	1,000.00	1,000.00

5% Interest Accrual for non payment in 5 days.

	Total
	Payments/Credits
	Balance Due

Phone #	E-mail
803-226-0025	sherry@waynesautomotivecenter.com

21

000811

EXHIBIT 2

Wayne's Automotive and Towing Center

SCIM
Spill Containment Incident Management
1997 Richland Avenue East
Aiken, SC 29801

Invoice

Date	Invoice #
2/10/2016	504462

Bill To

J. H. O. C., INC.
Premier Transportation
323 CASH MEMORIAL BOULEVARD
FOREST PARK GA 30297
282577

P.O. No.	Terms	Project
	Due Upon Receipt	

Description	Qty	Rate	Amount
Repacking Fee and Reloading from Loading Dock onto Trailer 2nd Load	1	750.00	750.00
Backhoe 420D and Transport and Heavy Operator	11.5	350.00	4,025.00
Skid Steer Track Loader and Transport	1	600.00	600.00
Back Deck Blower used for cleaning highway on bridge	1	275.00	275.00
Restocking and Reload Cargo	1	500.00	500.00
OSHA Certified Incident Communication Equipment	1	1,795.00	1,795.00
Emergency Digital Signage I-20 W Message Board exit 6 Detour	20	75.00	1,500.00
Traffic with Cones			
Emergency Digital Signage I-20 E Digital Arrow Board	20	75.00	1,500.00
Light Tower	8	75.00	600.00
Traffic Control High Intensity Sign 36x36 used a total of 4 on both	20	50.00	1,000.00
East and West lanes			
26 In. Traffic Cones total of 48			
Pallats for Restocking	20	50.00	1,000.00
PIG MAT240	3	22.95	68.85
Containment Booms used for containment preventing release into	25	7.50	187.50
Savannah River below site	1	85.00	85.00
Containment Liner			
	1	175.00	175.00
Storage Per Unit as of 02/15/2016	1	210.84	210.84
Storage Per Unit as of 02/15/2016	6	50.00	300.00
	6	50.00	300.00

5% Interest Accrual for non payment in 5 days.

Total	$69,017.19
Payments/Credits	$0.00
Balance Due	$69,017.19

Phone #	E-mail
803-226-0025	sherry@waynesautomotivecenter.com

King, Nicklous W.

From: Bob Watson [towinsurance@gmail.com]
Sent: Friday, February 19, 2016 11:33 AM
To: King, Nicklous W.; Karen Coppolino; Lucas Sentry; Haz Mat; Hughes, Clifton B.
Subject: Official complaint on Waynes towing Claim 61a169404 Premier Transporation

Officer King, I have called the tow company for 2 days and the owner (Jeff is the only one that is to talk with me) has not called me back.
I cannot get an answer on the cargo trying to get it pickup today.

After reviewing the tow bill I have several problems.

1. The tractor trailer recovery 21 hours. After the units where up righted it appears the HD recovery trucks just sat. Why where the units not towed to the yard. Waynes won't answer the question but states 21 hours.
2. I was told a lot of the equipment was sub contracted so they can charge extra money. Need a list of sub contracted equipment.
3. Air bags for $8,000.00. The tow company did not know how to use air bags, straps, angle iron to protect the corners which tore the trailer into 3 pieces. I have done over 150 air bag recoveries and was a trainer in CA and I have NEVER destroyed a trailer. I sent to other tow companies and they all agree with my assessment of the recovery. The tow company destroyed the trailer and wasted a lot of time.
4. Labor rates $150.00 per hour is about double the going rate. Then they lower the rate to $0.00 which is about correct.
5. Transfer cargo $750.00. They are already charging labor. What the $750.00 for? Then on page 2 there is another $750.00 charge.
6. Need a copy of the sublet bill for $1,000.00 additional labor 7. Tract hoe can be rented for about $350.00 a day.
8. Why did the tow co bring all the signs and cones out. Doesn't DOT or the state police cover this?
9. Cones $50.00 each. They cost between $13.00 and $19.00.
10. OSHA Certifies radio equipment. $1795.00 11. Called yesterday and today to get the cargo and I have to talk with Jeff only. No return call.

I have transportation spill solution working with me on the haz mat portion of the bill with I have concerns with. .

--
Robert Watson
President, Recovery Resolution Specialists

704-807-1733 www.recoveryresolutionspecialists.com

This email is confidential. If you are not the intended recipient, you must not disclose or use the information contained in it. If you have received this email in error, please reply immediately and inform the sender that you have received it in error. Recovery Resolution Specialists disclaims any and all liability for unauthorized used of this email or the information contained herein. Recovery Resolution Specialists recommends you scan all attachments with antivirus software, as we accept no responsibility for damages caused by viruses or malware that may be transmitted with this email.

000813

EXHIBIT 3

J.H.O.C. INC.
D/B/A PREMIER TRANSPORTATION

504662 03/04/16 Invoice 504662 48633.19

5224302

ORIGINAL CHECK HAS A COLORED BACKGROUND PRINTED ON CHEMICAL REACTIVE PAPER

PREMIER TRANSPORTATION

J.H.O.C., INC. D/B/A
PREMIER TRANSPORTATION
P.O. BOX 965
FOREST PARK, GA. 30298

BB&T
BRANCH

5224302

PAY Forty-eight thousand six hundred thirty-three and 19/100

DATE 03/04/16

AMOUNT 48,633.19

TO THE ORDER OF
Raymond Accessories Corporation
1551 Richland Avenue East
Aiken, SC 29801

AUTHORIZED SIGNATURE

⑈5224302⑈ [redacted]

000514

EXHIBIT 4

South Carolina Department of Public Safety
S.C. Highway Patrol

April 25, 2016

Mr. Walter Jeffery Corbett
Wayne's Automotive Center, Inc.
1997 Richland Avenue East
Aiken, South Carolina 29801

RE: Notice of Proposed Disciplinary Action

Dear Mr. Corbett:

The South Carolina Highway Patrol ("SCHP") has concluded an investigation of Wayne's Automotive Center, Inc. ("Wayne's") arising out of a tow performed by Wayne's on February 9, 2016. As a result of this investigation, it has been determined that Wayne's violated the applicable South Carolina Department of Public Safety ("SCDPS" or "Department") wrecker regulations as outlined below.

On February 9, 2016, Wayne's received a routine rotation call from SCHP requesting a Class "C" wrecker to tow a tractor trailer belonging to Premier Transportation ("Premier") that had overturned on I-20 near the South Carolina/Georgia border.

On February 10, 2016, Wayne's issued an invoice to Premier for the tow and clean-up totaling $69,017.19. Premier subsequently asked Robert Watson of Recovery Resolution Specialists to assist with payment of the appropriate charges and release of the cargo on behalf of the cargo's owner, Tractor Supply Company ("Tractor Supply"). When Mr. Watson encountered difficulty securing a reduction in the charges and the release of the cargo from Wayne's, he contacted SCHP to seek assistance.

SCHP Lieutenant N. W. King reviewed the invoice and contacted you on February 17, 2016, to discuss the fees and release of the cargo. You advised in response to questioning about the labor and equipment used to complete the tow and clean-up that some of the equipment and labor was furnished by two companies other than Wayne's, one of which was owned by your wife. Lieutenant King then advised you that labor and equipment provided by a third party needed to be billed on a separate invoice. You agreed to issue a revised invoice showing only those services performed by Wayne's and to submit the separate invoice(s) for subcontracted labor and equipment provided by third parties. Lieutenant King also explained that Wayne's was obligated to release the cargo pursuant to S.C. Code § 56-5-5635, and you agreed to release the cargo to Tractor Supply.

EXHIBIT 5

After Wayne's subsequently failed to issue an amended invoice or release the cargo, Mr. Watson filed a written complaint with SCHP on February 19, 2016. Lieutenant King then called you to discuss why Wayne's was refusing to take the actions that had been discussed during the February 17th conversation. You confirmed to Lieutenant King that Wayne's would not issue an amended invoice or release the cargo and advised that Wayne's would accept whatever consequences might result from such refusal.

The law governing wrecker services utilized by SCDPS is found in Section 38-600 of the South Carolina Code of State Regulations ("Regulation"). In particular, Regulation 38-600(F)(2) mandates that all fees charged by wrecker services for rotation list calls "shall be reasonable and not in excess of those rates charged for similar services . . . ." Additionally, Regulation 38-600(F)(2)(b) states that the "Troop commander will determine the reasonableness of the fees . . . ." As part of the rotation list qualification criteria, Regulation 38-600(B)(8) mandates that wrecker operators "display professional behavior when conducting business at the request of the South Carolina Department of Public Safety."

The maximum fees recoverable by wrecker services on the SCHP Rotation List for standard tows in each wrecker class are set annually, and each wrecker service must execute a corresponding fee schedule ("Fee Schedule") governing such fees for the upcoming calendar year. On November 25, 2015, Pamela Belton signed the SCHP Wrecker Rotation Fee Schedule on behalf of Wayne's establishing the Troop Six wrecker rotation fees for 2016. Fees for rotation list tows cannot exceed the amounts shown on the Fee Schedule, and charging additional fees other than those shown on the Fee Schedule is prohibited.

Pursuant to the Fee Schedule, Wayne's was permitted to charge $436.00 per hour for a standard Class "C" tow. The invoice reflects that Wayne's utilized a heavy duty wrecker for 21 hours at a rate of $436.00 per hour to complete the tow. However, Wayne's also billed for a rotator (21 hours) and a heavy duty tractor-trailer (13 hours) at the rate of $436.00 per hour. The hourly Class "C" rate set by the Fee Schedule is the maximum total hourly amount that may be charged for a wrecker service's performance of the tow/recovery itself. Therefore, the charges for the rotator and heavy duty tractor-trailer were not permitted by the Fee Schedule.

The Fee Schedule does not set a Specials Operations fee for a Class "C" tow but does allow a wrecker service to "recover the actual cost of rental or subcontract equipment or labor, or an out-of-pocket incidental expense that is necessary to accomplish the job." It goes on to add that "[p]roof of these actual costs in the form of an invoice or receipt must accompany the tow bill."

In your February 17th conversation with Lieutenant King, you represented that at least some of the equipment and labor involved in the tow and clean-up were subcontracted from one or more separate companies. However, Wayne's has refused to provide invoices showing which charges from the invoice constituted rented/subcontracted equipment or labor. Based on that refusal, SCHP has no record of the labor and equipment used in the February 9th tow/recovery belonging to any company other than Wayne's. Insofar as these charges have never been properly substantiated, they are improper.

South Carolina Code § 56-5-5635 governs tows performed on behalf of law enforcement. In particular, subsection (F) provides that "[t]he proprietor, owner, or operator of [a] towing company, storage facility, garage, or repair shop **must release any personal property that does not belong to the owner of the vehicle** to the owner of the personal property." S.C. Code § 56-5-5635(F) (emphasis added). Here, it is clear that the cargo belonged to Tractor Supply. Insofar as the cargo was not owned by Premier, Wayne's was obligated to release the cargo on demand. The refusal by Wayne's to release the cargo constitutes a statutory violation and is manifestly unprofessional.

DECISION

Having reviewed the entire record and determined that Wayne's committed the foregoing regulatory violations, I conclude the following disciplinary measure is warranted, in accordance with Regulation 38-600 and SCDPS policy: Definite suspension of Wayne's from the SCHP Wrecker Rotation List for one hundred and twenty (120) days.

Should a suspension be imposed, Wayne's will not receive any rotation calls during the applicable period for any county. In considering the suspension to be imposed in this matter, the Department has taken into account the fact that Wayne's received a 60-day suspension in 2015 for prior regulatory violations.

Wayne's has ten calendar days from the receipt of this notice to (1) submit a written reply and show cause why this disciplinary action should not be taken or (2) make a written request for a hearing. You may forward your reply or request for a hearing to my attention at SCHP Troop Seven Headquarters, 139 Middleton Street, Orangeburg, SC 29115.

The Department must receive your reply or hearing request within ten days of your receipt of this letter or you will be deemed to have waived your right to challenge the proposed disciplinary action. If a hearing is timely requested, you will be provided written notice of the date, time, and location that the hearing will be held. A written decision will be issued to you regardless of whether you submit a reply or request a hearing.

Sincerely,

Captain A. K. Grice
South Carolina Highway Patrol

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Wayne's Automotive and Towing Center
SCIM
Spill Containment Incident Management
1997 Richland Avenue East
Aiken, SC 29801

Invoice

Date	Invoice #
2/10/2016	504462

Bill To

J. H. O. C., INC.
Premier Transportation
323 CASH MEMORIAL BOULEVARD
FOREST PARK GA 30297
282577

P.O. No.	Terms	Project
	Due Upon Receipt	

Description	Qty	Rate	Amount
Recovery			
60 Ton Rotator HD4 used for upright winching both tractor during first part of recovery and trailer last part of recovery and towing damaged trailer to storage yard 2:00 am-23:00 Per GPS Tracking Report	21	436.00	9,156.00
Class C Heavy Duty Truck HD5 used for upright winching both tractor and trailer and towing of the tractor to the yard for storage	12	436.00	5,232.00
Labor and Equipment			
Tractor Trailer 53ft used for transferring the cargo [redacted]	13	436.00	5,668.00
Recovery Supervisor JC	21	175.00	3,675.00
Recovery Technician BH	21	150.00	3,150.00
Recovery Technician KJ	21	85.00	1,785.00
Recovery Technician JH	21	85.00	1,785.00
Recovery Technician BR	8	85.00	680.00
Recovery Technician WB	19	85.00	1,615.00
Response Unit used for transporting supplies, snatch blocks, oil dry, absorbents, booms, back deck blower, brooms, shovels, etc.	20	175.00	3,500.00
Labor Hours for WRH	1.5	50.00	75.00
Labor Hours JS	7	50.00	350.00
Labor Hours PW	3.5	50.00	175.00
Labor Hours MR	7	50.00	350.00
Labor Hours KS	3.5	50.00	175.00
Labor Sublet from Verns Towing	1	1,000.00	1,000.00
Loading Dock Rental	1	750.00	750.00
Backhoe 420D and Transport and Heavy Operator	1	600.00	600.00
Skid Steer Track Loader and Transport	1	600.00	600.00

All QTY is per hours of usage.

Total	
Payments/Credits	
Balance Due	

Phone #	E-mail
803-226-0025	sherry@waynesautomotivecenter.com

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000818

EXHIBIT 6

Wayne's Automotive and Towing Center

SCIM
Spill Containment Incident Management
1997 Richland Avenue East
Aiken, SC 29801

Invoice

Date	Invoice #
2/10/2016	504462

Bill To

I. H. O. C., INC.
Premier Transportation
323 CASH MEMORIAL BOULEVARD
FOREST PARK GA 30297
282377

P.O. No.	Terms	Project
	Due Upon Receipt	

Description	Qty	Rate	Amount
2 trips to the loading dock with cargo	2	250.00	500.00
OSHA Certified Incident Communication Equipment charge hourly	21	85.00	1,785.00
Emergency Digital Signage I-20 W Message Board exit 6 Detour Traffic with Cones	20	75.00	1,500.00
Emergency Digital Signage I-20 E Digital Arrow Board	20	75.00	1,500.00
Light Tower	8	75.00	600.00
Traffic Control High Intensity Sign 36x36 used a total of 4 on both East and West lanes for recovery and cargo and recovery	20	50.00	1,000.00
28 In. Traffic Cones total of 48 cones for recovery and cargo and recovery per hour	20	35.00	700.00
Pallets for Restocking the cargo	3	22.95	68.85
PIG MAT240 used to clean waste of fluids on the bridge	25	7.50	187.50
Containment Booms used for containment preventing release of chemicals and fluids into Savannah River below site	1	85.00	85.00
Containment Liner for storage of waste oil dry	1	175.00	175.00
Cargo Wrap	1	210.84	210.84

This price is with A lot of Item used Not Charged Out For and This price is only IF we Agree To Settlement

All QTY is per hours of usage.

OR I will Give The Total price Of All Equipment, Manpower, Ect. For The Insurance Company To Review

Total	$48,633.19
Payments/Credits	$0.00
Balance Due	$48,633.19

Phone #	E-mail
803-226-0025	sherry@waynesautomotivecenter.com

South Carolina Department of Public Safety
S.C. Highway Patrol

July 30, 2015

Mr. Walter Jeffery Corbett
Wayne's Automotive Center, Inc.
1997 Richland Avenue East
Aiken, South Carolina 29801

RE: Notice of Disciplinary Action Decision

Dear Mr. Corbett:

By letter dated June 1, 2015, the South Carolina Highway Patrol ("SCHP") notified Wayne's Automotive Center, Inc. ("Wayne's") of proposed disciplinary action stemming from an investigation into Wayne's failure to maintain its wrecker business in accordance with the applicable South Carolina Department of Public Safety ("SCDPS" or "Department") wrecker regulations. The Department's decision in this matter is set forth below.

FINDINGS OF FACT

1. In October 2014, Captain C. B. Hughes observed that Wayne's Lexington location did not appear to be open during normal business hours. Specifically, Captain Hughes noted that Wayne's was closed on October 9, October 14, and October 16. Additionally, Captain Hughes saw that the fence surrounding Wayne's storage yard was pushed down. Captain Hughes shared his concerns with the Troop 1 command staff, and an investigation was undertaken.

2. On October 16, 2014, Sergeant G. D. Rothell went to Wayne's to assess the concerns observed by Captain Hughes. He found the gate to Wayne's locked and the location unmanned. Sergeant Rothell then called the phone number posted on Wayne's fence. His call was answered by an employee at Wayne's Aiken location who advised him that the employee working at Wayne's Lexington location must have been at lunch. Sergeant Rothell was then transferred to someone named "Wendy" who advised that the Lexington employee was out making a bank deposit. While at the location, Sergeant Rothell confirmed that approximately 72 feet of the fence surrounding the storage yard was pushed over and that some portions of the fence were only four feet high.

3. On October 20, 2014, Lieutenant W. L. Herrington contacted you to discuss the lack of an employee at Wayne's Lexington location during normal business hours and the downed fence. You conceded during the conversation that the lone employee assigned to the Lexington location left the business every day to go to lunch, thereby leaving the location unmanned. You advised that you would ensure that an employee was present during business hours in the future and that you would address the issues with the damaged fence.

EXHIBIT 7

4. Captain Hughes continued to periodically monitor the situation at Wayne's Lexington location. On November 19, 2014, he observed that the gate was closed and locked. Cpt. Hughes further noted on November 25, 2014, that Wayne's had no vehicles and very little equipment at the Lexington location. On November 26, 2014, he again saw the gates to Wayne's closed and locked. Despite the fact that Wayne's Lexington location apparently was not operational during this time period, Wayne's continued to accept SCHP rotation calls for Lexington County.

5. On December 5, 2014, Lt. Herrington again contacted you to discuss the status of the Lexington location. You admitted to him that you were closing the location and intended to vacate the premises by the end of 2014.

6. On June 4, 2015, a Notice of Proposed Disciplinary Action ("Notice") was delivered to you (1) outlining the violations substantiated by the Department and advising that SCHP was contemplating suspending Wayne's from the rotation list for a period of sixty (60) days as a result; and (2) informing you that Wayne's had ten calendar days from receipt thereof to show cause why the proposed disciplinary action should not be taken, either by submitting a written reply or making a written request for a hearing.

7. No written reply or written request for a hearing was received by the Department within the specified time frame. Consequently, Wayne's waived its right to challenge the proposed disciplinary action.

CONCLUSIONS OF LAW

8. The law governing wrecker services utilized by SCDPS is found in Section 38-600 of the South Carolina Code of State Regulations ("Regulation"). Regulation 38-600(C)(1) provides that SCHP "will establish zones for towing" and requires wrecker services on a particular zone's rotation list to "physically have a business within that zone."

9. Regulation 38-600(C)(6) states that a wrecker service "shall have an agent present during business hours," which is defined by subsection (C)(1) as running "at least from 8:30 a.m. to 5:00 p.m., Monday through Friday."

10. Regulation 38-600(C)(14)(a) requires an outside storage facility to be sufficiently fenced for the protection of vehicles and property, and Regulation 38-600(C)(14)(b) requires such fencing to be not less than six feet in height.

11. Regulation 38-600(C)(1) obligates a wrecker service to immediately notify the Highway Patrol upon a change of address.

12. SCHP personnel repeatedly observed Wayne's Lexington location closed in October 2014, and Captain Hughes' observations indicated that Wayne's ceased operating a fully-functioning business by the end of November 2014. Wayne's never advised SCHP that it had effectively closed the Lexington location around this time. This closure left Wayne's without a physical location or agent in Lexington County, and it is undisputed that Wayne's fencing around the storage yard had been inadequate for an extended period of time.

DECISION

Having reviewed the entire record and determined that Wayne's committed the foregoing regulatory violations, I conclude the following disciplinary measure is warranted in accordance with Regulation 38-600 and SCDPS policy: Definite suspension of Wayne's Automotive Center, Inc., from the SCHP Wrecker Rotation List for sixty (60) days.

The suspension shall begin on Sunday, August 23, 2015 and run through October 21, 2015. Insofar as this suspension applies to all South Carolina locations operated by Wayne's, it will not receive any SCHP Rotation List calls in any county during this period. Per SCDPS policy, this disciplinary measure may be used to support subsequent disciplinary action and shall become a part of the permanent SCDPS file on Wayne's Automotive Center, Inc.

You have ten (10) days from the date you receive this decision to appeal to the SCHP commander by sending a written request containing the grounds for such appeal to: Col. Michael R. Oliver, South Carolina Highway Patrol, P. O. Box 1993, Blythewood, South Carolina 29016.

Sincerely,

Captain C. T. Stephens
South Carolina Highway Patrol

South Carolina Department of Public Safety
S.C. Highway Patrol

September 22, 2015

Mr. Walter Jeffery Corbett
Wayne's Automotive Center, Inc.
1997 Richland Avenue East
Aiken, South Carolina 29801

RE: Notice of Disciplinary Action Decision

Dear Mr. Corbett:

I have reviewed your appeal of Captain Stephens' July 30, 2015 Disciplinary Action Decision that you submitted on behalf of Wayne's Automotive Center, Inc. ("Wayne's") by letter dated August 3, 2015. After having carefully considered the grounds raised in your appeal, I concur with the findings and conclusions made by Captain Stephens and affirm his decision to suspend and remove Wayne's from the South Carolina Highway Patrol's Wrecker Rotation List for a 60-day period, which shall begin on October 4, 2015, and run through December 3, 2015. During this period, Wayne's will not receive any Rotation List calls in any county.

Your appeal also "request[s] a hearing of the advisory committee." The advisory committee referenced in Section 38-600(D)(5) of the South Carolina Code of State Regulations reviews issues raised in a complaint or appeal only "upon [a] request by the Department [of Public Safety]." The Department of Public Safety declines to convene such a committee in connection with your appeal.

This is the final agency action for purposes of administrative review. Should you wish to pursue an appeal of this matter, you may seek judicial review in a court of competent jurisdiction.

Michael R. Oliver

Colonel Michael R. Oliver
South Carolina Highway Patrol

EXHIBIT 8

Austin & Rogers, P.A.
ATTORNEYS AND COUNSELORS AT LA

WILLIAM FREDERICK AUSTIN
(1930-2016)

TIMOTHY F. ROGERS
RAYMON E. LARK, JR.
RICHARD L. WHITT
EDWARD L. EUBANKS
W. MICHAEL DUNCAN*

* ALSO ADMITTED IN N.C.

COLUMBIA OFFICE
CONGAREE BUILDING
508 HAMPTON STREET, SUITE 300
POST OFFICE BOX 11716 (29211)
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 256-4000
FACSIMILE: (803) 252-3679
WWW.AUSTINROGERSPA.COM

OF COUNSEL:
ON D. GRIFFITH, III

EXHIBIT
letter C

recd 10/21/16
by Monishia L. Davis,
Paralegal, Office of
General Counsel.

October 21, 2016

VIA HAND DELIVERY
Colonel M.R. Oliver
South Carolina Highway Patrol
P.O. Box 1993
Blythewood, SC 29016

Re: Notice Of Appeal Of Disciplinary Action Decision-Wayne's Automotive Center, Inc., Our File No. 16145

Dear Colonel Oliver:

Please be advised this letter constitutes the appeal by Wayne's Automotive Center, Inc. of the above Decision, received by certified mail by me for Wayne's and Jeff Corbett on September 29, 2016, following the hearing on this matter on August 8th. SCDPS counsel kindly extended the deadline for appeal for 10 days until October 21st upon my request due to my workload and extenuating circumstances. Our grounds for this appeal follow, and we would be glad to meet with you to assist further in just and fair resolution of this matter with no suspension imposed rather than having to pursue it further.

Near the conclusion of the hearing on August 8th we provided the written complaint by Robert Watson after we received it in responses to our FOIA Requests. As mentioned during the hearing, we had not received it earlier. Aside from having no standing to file a complaint, since he was not the owner of any property damaged or lost, the failure of Mr. Watson—or anyone an owner of the property in question—to provide Wayne's Automotive/Jeff Corbett with a copy of any complaint (legitimate or otherwise) violated S.C. Reg. 38-600 (C) (6). **In support of our position, we had provided to SCDPS counsel via email on July 1st, the attached message and attachments, wherein we pointed out:**

> **First**, the written complaint has been brought by Robert E. Watson (*Notice* @ 1). We have sought documentation for the Notice, including this written complaint, as expressly referenced in my email message to Ms. Schmidt re our 3d FOIA Request, dated June 24th, with copy to you. **Mr. Watson is not a real party in interest; therefore, he has no standing to bring such complaint.** ***See*** **attached West Virginia PSC Letter and Staff Legal Memo**, regarding him and his status there. As you can further see by viewing **Case No. 13-0431-MC-FC** and the link **http://www.psc.state.wv.us/Orders/default.htm**

online, Staff expressed its opinion, Sentry Insurance Co. became the Complainant, Watson's motion was granted eliminating him as the Complainant; and the case was ultimately settled at mediation.

Second, whereas in the West Virginia matter, the transportation carrier and insurance carrier, Sentry, had a material controversy against the Defendant tow company, in the current matter, there is no underlying transportation carrier or insurance carrier with any issue to step in. *See* **attached full settlement payment from Premier to Wayne's Automotive for $48,633.19, made in early March 2016—over a month before the** SCHP/SCDPS issued its *Notice* on April 25, 2016. Unfortunately, it appears the parties stopped conversing among each other following Mr. Watson's written complaint, filed February 19 2016, according to the *Notice* @ 2.

Third, SCDPS/SCHP should withdraw/dismiss the current matter following your review and consideration of the facts herein, because it is moot and there are no exceptions warranting its continuation. *See, e.g.*, **attached Youngblood v. S.C. Dep't of Soc. Serv., 402 SC 311, 741 S.E. 2d 515 (2013), Curtis v. State, 549 S.E.2d 591, 345 S.C. 557 (2001), and S.C. Pub. Interest Found. v. S.C. Dep't of Transp. 412 S.C. 18, 770 S.E.2d 399 (Ct. App. 2015).**[1]

Next, by email on July 15th to SCDPS/HP counsel, we addressed noncompliance with evidentiary standards in the disciplinary hearing process utilized whereby the SCDPS/HP is improperly functioning as both prosecutor and adjudicator and violating our clients' rights to Due Process herein in violation of S.C. Const. Art. I, §22,. And in further violation of §22, SCDPS/HP has shifted the burden of proof to our clients to prove their innocence rather than there being any legitimate complaint or complainant to carry that burden of proof to show their guilt.

Then on July 20th via email we sought withdrawal/dismissal as to the Notice and in support advised SCDPS/HP counsel and staff:

---

[1] As parts of this Appeal, we are attaching the (a) West Virginia PSC determination that Watson had no standing in bringing his complaint there, since he had no required, underlying property interest and the (b) *Youngblood* decision in which the South Carolina Supreme Court held standing to bring an action requires having an underlying property interest. *Accord*, the full settlement check paid by the property owner, Premier, which filed no complaint herein, in **Exhibit 4** to the Decision, and the *Youngblood* case principles. **Applying the West Virginia authority or the *Youngblood* principles led to the instant case, Watson has no standing herein due to no property interest rendering the complaint against Wayne's Automotive improper. You should not, therefore, even reach the mootness question or whether this case mat constitute an exception to application of the mootness doctrine, as the Decision improperly does not even reach the hearing defect issues raised in our July 20th email and at the hearing.** The discussion as to "storage fees or charges" in Conclusion Of Law ¶ 30 disregards the reference in Watson's complaint (**Exhibit 3**) that he "cannot get an answer on the cargo trying to get it pickup (sic) today." We also invite you, Colonel Oliver, to go to the West Virginia PSC website link above as we did Captain Grice, Captain Hughes, and SCDPS counsel previously in further support of our position in this appeal.

The hearing process utilized by SCDPS/SCHP is defective in several respects, including but not necessarily limited to the following:

(a) it is inconsistent with Reg. 38-600, S.C. Code Ann. §23-6-20 (B), which is the statutory basis for that regulation as well as provisions of the SC Administrative Procedures Act cited therein as well as evidentiary standards with the result being utilization by the SCDPS/SCHP of an unlawful binding norm;

(b) it is inconsistent with substantive and procedural due process provisions in SC Const. Art. I, § 3; and

(c) it is inconsistent with SC Const Art. I, §§22 and 23, which state:

SECTION 22. Procedure before administrative agencies; judicial review.

No person shall be finally bound by a judicial or quasi-judicial decision of an administrative agency affecting private rights except on due notice and an opportunity to be heard; nor shall he be subject to the same person for both prosecution and adjudication; nor shall he be deprived of liberty or property unless by a mode of procedure prescribed by the General Assembly, and he shall have in all such instances the right to judicial review. (1970 (56) 2684; 1971 (57) 315.)

SECTION 23. Provisions of Constitution mandatory.

The provisions of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or permissory by its own terms. (1970 (56) 2684; 1971 (57) 315.)

At the hearing on August 8th, we handed up the written emailed complaint by Watson, who was not at the hearing. It is attached as **Exhibit 3** to the Decision.

Thereafter, following the August 8th hearing on 12th via email, we provided supplemental information within the 5-day period allowed to seek withdrawal/dismissal of the instant Notice, based on the following developments:

SCDPS/HP raised a new matter in connection with the pending Notice regarding another alleged violation subject to disciplinary action, concerning a winch tow dispute between Wanda Herron and Wayne's Automotive in May of this year in an improper attempt to extract agreement by Wayne's to settle the pending and this other matter by global consent order without admitting guilt. Moreover, as shown by the attached email from Ms. Herron to Lt. King and copied to Jeff Corbett, dated August 9th, 2016, there is no pending complaint from her (i.e. complainant) upon which to base another notice of proposed disciplinary action and she--not Mr. Herron--is shown as the owner of the vehicle in the information in the second attachment. Therefore, she is the person with standing to complain.

000826

Regardless, however, such action and attempted enforcement is also improper, based on the first 2 additional points above. That is, SCDPS/HP has no right to threaten to issue or issue a notice as to it, there is another violation of S.C. Reg. 38-600 (C) (6), and SCDPS/HP cannot function as both prosecutor and adjudicator, again violating our clients' rights to Due Process and impermissibly shifting the burden of proof to our clients to prove their innocence rather than there being any legitimate complaint or complainant to carry that burden of proof to show their guilt under S.C. Const. Art. I, §22;

Furthermore, as to the attached email from Ms. Herron to Lt. King, she has represented she was the complainant—not Mr. Herron--as stated in the August 9th Notice. Mr. Corbett reduced the amount owed and initially paid by $148 as a gesture of goodwill—not because he overcharged her. The total amount initially charged and paid was proper. The vehicle was locked, in the middle of the road, could not be put into neutral, and was without a front wheel and hub, as shown in the attached notes by Wayne's tow driver, John Herring, dispatch and log entries, and photo of the vehicle in the storage yard. Contrary to the Notice of Proposed Disciplinary Action, dated August 9th and received today by Wayne's Automotive, the attached notes and related entries confirm (a) Wanda Herron is the owner of the vehicle, (b) it had to be winched to be towed, and (c) the trooper on the scene authorized the winching, thereby justifying at least the additional $118 winching fee to get it on the bed of the tow truck and it also had to be winched to get it off the bed. Any videotape referenced obviously does not show the vehicle being in the actual condition it was in the middle of the road. Lt. King misunderstood what Mr. Corbett advised him about "winching was not required", as John Herring's notes also indicate. In addition, as to the Wayne's representative, referenced on p. 1 of the new Notice in 3, it was unreasonable for pickup on Sunday morning. The refunded amount nevertheless included both $118 for the winching and $30 dollars for overnight storage, totaling $148.00. NOTE: Mr. Corbett for Wayne's Automotive Center, Inc. through undersigned counsel hereby submits this email transmission with attachments as the written request for a consolidated or separate hearing, concerning this new matter, absent withdrawal/dismissal of it, as hereby requested, or, alternatively, as suggested below.

Finally, in light of the previous points raised and documentation provided, including the redacted full settlement payment with detailed invoice to Wayne's Automotive by Premier Transportation, the owner of the property at issue, dated March 4, 2016, we respectfully renew our request that you please (a) withdraw/dismiss the Notice regarding this matter and (b) retract the Notice as to the Herron matter, based on the above and on denial by Jeff Corbett and Wayne's Automotive of the allegations in that new Notice. Otherwise, alternatively, please reverse the ruling on the instant Decision, consolidate this Notice it with the August 9th Notice, allow a reasonable time for any additional FOIA Requests to be propounded, and extend the current 5-day period to allow additional time to keep the record open to allow submission of additional documents and information in it for further consideration in a consolidated hearing and supplemental hearing concerning both Notices.

After a review of the decision herein, we respectfully re-allege the above points and disagree with all of the Conclusions Of Law.[2] Conclusions Of Law ¶s 19-30 basically endeavor to address the improper complaint-related issues and ¶s 31-32 endeavor, respectively, to address the Constitutional dual prosecutor-adjudicator Due Process prohibitions and to justify a 120-day suspension, based on a prior 60-day suspension.

The Decision ignores the patent violation of the Regulation, as asserted, by no copy of the complaint having been provided to Wayne's Automotive, Inc., as required. When there is no viable complaint for consideration, no disciplinary action is appropriate. After my clients and I were shown the door, SCDPS counsel advised me outside of it of the Herron matter and I subsequently shared that information with my clients after counsel returned to the hearing room to confer *ex parte* with the SCDPS/HP personnel in attendance, which included Lieutenant King, Captain Grice, and Captain Hughes. Reliance on the *Baldwin* case cited is misplaced. The Due Process violations alleged are supported by the facts and rationale in *Garris v. Governing Board of the SC Reinsurance Facility*, 333 S.C. 432, 441-448, 511 S.E. 2d 48 (1998), wherein the Court concluded:

> In sum, we conclude Facility is an administrative agency, the same persons served as both prosecutors and adjudicators in violation of Article I, Section 22, and the process was so inherently flawed that it is not subject to harmless error analysis.

Id. at 333 S.C. 448. We are also attaching (c) a copy of *Garris, supra,* for your convenience.

---

[2] Even assuming the Findings Of Fact are accurate, they do not support the Conclusions Of Law reached in the Decision herein. From our perspective, however, the following Findings Of Fact are incorrect:

(2) the call received was not a "routine rotation call";

(3) through (17) fail to reference the context that concerned storage fees for the cargo and internal work on invoice revisions that were halted upon Watson's written complaint (sic) not sent to Mr. Corbett or Wayne's Automotive and subsequent direct communications between Mr. Corbett and the owner of Premier—the party with underlying property interests—that had led to resolution of the matter by March 4th through payment in full, as shown in **Exhibits 4** and **6** to the Decision, as provided by Wayne's Automotive in advance of the hearing. This matter, therefore, was resolved almost a month and a half prior to SCPDS's issuance of its Notice of Proposed Disciplinary Action, dated April 25, 2016, in **Exhibit 5** to the Decision; and

(18) the prior 60-day suspension of Wayne's Automotive and unsuccessful appeal in 2015 in **Exhibits 7** and **8** to the Decision related to a closed location in Lexington and were not included as bases for issuance of the Notice in **Exhibit 5** herein.

As to Finding of Fact (18), therefore, the reference in Conclusion Of Law ¶ 32 to that "this disciplinary measure may be used to support subsequent disciplinary action" is misplaced and is an additional improper basis for any disciplinary action, concerning the case now before the Department.

Thanks in advance, Colonel Oliver, for your review, reconsideration, and reversal of the 120-day suspension from the SCHP Wrecker Rotation currently to be imposed in the Decision and dismissal of the matter.

Sincerely,

AUSTIN & ROGERS, P.A.

Raymon E. Lark, Jr.

Raymon E. Lark, Jr.

Enclosures
cc: Warren Ganjehsani (w/Enclosures)
Marc Gore (w/Enclosures)

000829

Ray Lark — **Enclosures With Appeal By Wayne's Automotive Of SCDPS Decision**

From: Ray Lark
Sent: Friday, August 05, 2016 5:17 PM
To: 'AnthonyGrice@SCDPS.GOV'; 'CliftonHughes@SCDPS.GOV'
Cc: Warren V. Ganjehsani; Marc Gore; Meg K. Duncan
Subject: FW: Requests For Review Of This Message & Attachments & Withdrawal/Dismissal Of Notice Of Proposed Disciplinary Action Against Wayne's Automotive Center, Inc./Walter Jeffrey Corbett (Notice)--Important
Attachments: WVA PSC Legal Staff R. Watson no standing dck20130624162841.pdf; Settlement In Full Payment ($48,633.19) (AC#redacted) .pdf; Youngblood v. S.C. Dep't of Soc. Serv., 402 SC 311, 741 SE 2d 515 (2013) no standing.docx; Curtis v. State, 549 S.E.2d 591, 345 S.C. 557 (S.C. 2001) docx; S.C. Pub. Interest Found. v. S.C. Dep't of Transp. 412 S.C. 18, 770 S.E.2d 399 (Ct. App., 2015) no standing & moot.docx
Importance: High

Tracking:	**Recipient**	**Delivery**	**Read**
	'AnthonyGrice@SCDPS.GOV'		
	'CliftonHughes@SCDPS.GOV'		
	Warren V. Ganjehsani		
	Marc Gore		
	Meg K. Duncan	Delivered: 8/5/2016 5:17 PM	Read: 8/8/2016 11:02 AM

Captain Grice and Captain Hughes,

Warren has provided me with your email addresses so I could forward 2 emails with an Internet link and attachments for your review and consideration prior to the hearing in the above matter scheduled for this coming Monday at 10 am at the Blythewood office. Thanks in advance for reviewing the messages, link, and attachments prior to the hearing.

Below is the first email previously sent to them on July 1st. I did not realize until today counsel had not already forwarded them to you, since we have requested the hearing and notice be withdrawn or dismissed, since Robert Watson has no standing to bring it and/or since the matter was resolved by Premier's payment to Wayne's in early March—well before the April 25th notice was sent.

IN PARTICULAR, PLEASE NOTE: The link below is to the West Virginia PSC in a towing case in which PSC staff took the position Robert Watson, who filed a complaint, had no standing to bring the case, since he had no personal interest in the underlying property damages at issue. Subsequently, Sentry Insurance Company was named Complainant and Watson's motion was granted to delete him.

Regards. Raymon Lark for Austin & Rogers, P.A.

Attorneys for Wayne's Automotive and Jeff Corbett

Raymon E. Lark, Jr.
Shareholder & Vice President
Austin & Rogers, P.A.
508 Hampton Street, 3rd Floor
Columbia, SC 29201
803/256-4000
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From: Ray Lark
Sent: Friday, July 01, 2016 3:29 PM
To: Warren V. Ganjehsani; Marc Gore
Cc: Meg K. Duncan
Subject: Requests For Review Of This Message & Attachments & Withdrawal/Dismissal Of Notice Of Proposed Disciplinary Action Against Wayne's Automotive Center, Inc./Walter Jeffrey Corbett (Notice)--Important
Importance: High

Good afternoon, Warren and Marc. As I indicated yesterday when I spoke with Marc, we would reach out today to you to request the above matter be withdrawn and/or dismissed and the hearing cancelled, based on several factors.

First, the written complaint has been brought by Robert E. Watson (*Notice* @ 1). We have sought documentation for the Notice, including this written complaint, as expressly referenced in my email message to Ms. Schmidt re our 3d FOIA Request, dated June 24th, with copy to you. Mr. Watson is not a real party in interest; therefore, he has no standing to bring such complaint. *See* attached West Virginia PSC Letter and Staff Legal Memo, regarding him and his status there. As you can further see by viewing Case No. 13-0431-MC-FC and the link http://www.psc.state.wv.us/Orders/default.htm online, Staff expressed its opinion, Sentry Insurance Co. became the Complainant, Watson's motion was granted eliminating him as the Complainant; and the case was ultimately settled at mediation.

Second, whereas in the West Virginia matter, the transportation carrier and insurance carrier, Sentry, had a material controversy against the Defendant tow company, in the current matter, there is no underlying transportation carrier or insurance carrier with any issue to step in. *See* attached full settlement payment from Premier to Wayne's Automotive for $48,633.19, made in early March 2016—over a month before the SCHP/SCDPS issued its *Notice* on April 25, 2016. Unfortunately, it appears the parties stopped conversing among each other following Mr. Watson's written complaint, filed February 19 2016, according to the *Notice* @ 2.

Third, SCDPS/SCHP should withdraw/dismiss the current matter following your review and consideration of the facts herein, because it is moot and there are no exceptions warranting its continuation. *See, e.g.*, attached Youngblood v. S.C. Dep't of Soc. Serv., 402 SC 311, 741 S.E. 2d 515 (2013), Curtis v. State, 549 S.E.2d 591, 345 S.C. 557 (2001), and S.C. Pub. Interest Found. v. S.C. Dep't of Transp. 412 S.C. 18, 770 S.E.2d 399 (Ct. App. 2015).

Under these circumstances, we respectfully request your review and consideration and withdrawal/dismissal of the Notice; however, we would still like Responses to our 3d FOIA Requests in order to proceed to work together regarding potential wrecker rotation list modifications and advisory committee development and implementation over the next several months.

Thanks and have a happy Fourth of July weekend!

Ray

Raymon E. Lark, Jr.
Shareholder & Vice President
Austin & Rogers, P.A.
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Public Service Commission
Of West Virginia

201 Brooks Street, P. O. Box 812
Charleston, WV 25323

Phone: (304) 340-0300
FAX: (304) 340-0325

June 24, 2013

Robert E. Watson
Recovery Resolution Specialists, Inc.
PO Box 969
Cornelius, NC 28031

Scott H. Kaminski, Esq.
Counsel, Sentry Select Insurance Company
Balgo & Kaminski, L. C.
PO Box 3548
Charleston, WV 25335-3548

Jerry Adkins
JB's Towing Service
344 Sherwood Drive
Huntington, WV 25704

RE: Case No. 13-0431-MC-FC
Robert E. Watson
v.
Jerry Adkins, dba JB's Towing Service

Gentlemen:

Pursuant to Rule 2 of the Commission's Rules of Practice and Procedure, we are enclosing a copy of the Staff memorandum in this matter. If you wish to respond to the enclosed Staff memorandum, you may do so in writing, within ten days, unless directed otherwise, of this date.

Your failure to respond in writing to the utility's answer, Staff's recommendations, or other documents may result in a decision in your case based on your original filing and the other documents in the case file, without further hearing or notice.

If you have provided an email address you will automatically receive notifications as documents are filed in this proceeding. The email notifications allow recipients to view a document within an hour from the time the filing is processed. If you have not provided your email address, please send an email to caseinfo@psc.state.wv.us and state the case number in the email subject field.

Sincerely,

Sandra Squire, Director
Executive Secretary Division

SS/jn
Enclosure: Memo

FINAL JOINT STAFF MEMORANDUM

TO: SANDRA SQUIRE
Executive Secretary

DATE: June 24, 2013

FROM: LINDA S. BOUVETTE
Staff Attorney

RE: CASE NO. 13-0431-MC-FC
ROBERT E. WATSON
v.
JB'S TOWING

03:53 PM JUN 24 2013 PSC EXEC SEC DIV

On March 26, 2013, Robert E. Watson (Complainant) filed a verified formal complaint against JB's Towing (Defendant) alleging an overcharge for removing a trailer wedged in an underpass at the 20th Street Viaduct, Huntington, West Virginia. JB's removed the trailer, unloaded the material, reloaded it into another trailer and delivered it to the customer's warehouse.

On April 3, 2013, JBs' Towing (Defendant) filed its unverified response to the formal complaint. The Defendant took the position that the tow was not a third party tow since it spoke with the driver, the owner of the truck, the owner of the material loaded on the truck and the insurance company and advised them of the cost to do the work. According to the Defendant the parties agreed to pay the bill.

The Defendant acknowledged that some overbilling occurred in the labor charges but revised billing for each invoice was submitted that corresponds to JB's PSC-approved tariff. JB's claims it is owed $1,799.00 for storage on the trailer, which amount increases each day.

Utilities Division Final Recommendation

In the attached Staff Final Memorandum received by the Legal Division on June 24, 2013, Jennifer Moore, Utilities Analyst with the Commission's Utilities Division, stated she was unable to ascertain what costs were associated with the original tow, the request to cover and protect the cargo and the reloading of the cargo for delivery to the customer. In addition Ms. Moore noted that several pieces of equipment used during the tow and subsequent activities were not registered with the Commission and labor charges could not be verified. Based on the lack of documentation and uncertainty of information provided by both parties, Ms. Moore recommended this matter be set for hearing.

Legal Division Final Recommendation

Legal Staff has reviewed Utilities Division Final Staff Memorandum and agrees that neither Complainant nor Defendant have been forthcoming with the necessary information to adequately investigate the allegations contained in the complaint and therefore a hearing is needed to determine the facts. Legal Staff remains concerned that the real party in interest is not a party to this action and that the Complainant, Robert Watson, has no standing to pursue this claim since he did not pay the money to the Defendant for which he is seeking reimbursement nor is he responsible for the money claimed owed by the Defendant.

LSB/cs
Attachment

CWS
H:\LBouvette\CASES\2013\13-0431-MC-FC Final Joint Staff Memo.doc

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA
UTILITIES DIVISION, STAFF FINAL MEMORANDUM

FROM: Jennifer Moore, Utilities Analyst
Utilities Division

DATE: June 24, 2013

SUBJECT: **CASE NO. 13-0431-MC-FC**
Robert E. Watson
v
Jerry Adkins, dba JB's Towing Service

On March 26, 2013, Robert E. Watson (Complainant) filed a Formal Complaint before the Public Service Commission of West Virginia (PSC) against Jerry Adkins, dba JB's Towing Service (JB's - Defendant). The Complainant stated that JB's is overcharging him on rates, hours, equipment and laborers associated with a vehicle being towed on February 17, 2013. Complainant asked that invoices be reviewed and that any amount overcharged be returned to him. He estimated the amount to be at least $10,000.00

On Sunday February 17, 2013 at approximately 7:15 pm a tractor-trailer owned and operated by Miguel Moreno was involved in a single vehicle accident at the 20th Street Viaduct in Huntington, West Virginia. The tractor-trailer became wedged in the viaduct and the cargo (Carbon) had to be unloaded and transferred to another trailer before the removal of the tractor-trailer could begin. Per JB's representative, this process took approximately twelve (12) hours.

On the second day, February 18, 2013, which was also President's Day, a request was made for JB's to tarp the load to insure that it did not come into contact with any sunlight or moisture. This was done and pictures were sent as proof. Later that day, at the owner's request, JB's was asked to deliver the load. This would include placing freight back on pallets, and loading it into a trailer. The freight was delivered on February 20, 2013 and an additional 10 hours of labor and equipment was incurred.

In reviewing invoices and information submitted by the Defendant, Utility Staff has not been able to determine what costs are associated with the original Sunday night tow, the request to tarp the load and the reloading for delivery. Also several pieces of equipment that were used are not registered with PSC and the labor charges could not be verified. Defendant stated that the equipment and the labor were supplied from friends and family and that they were paid in cash after the cargo was redelivered.

Based on the lack of supporting documentation and the uncertainty of information provided by both parties, Staff recommends that this matter be scheduled for a hearing.

SL

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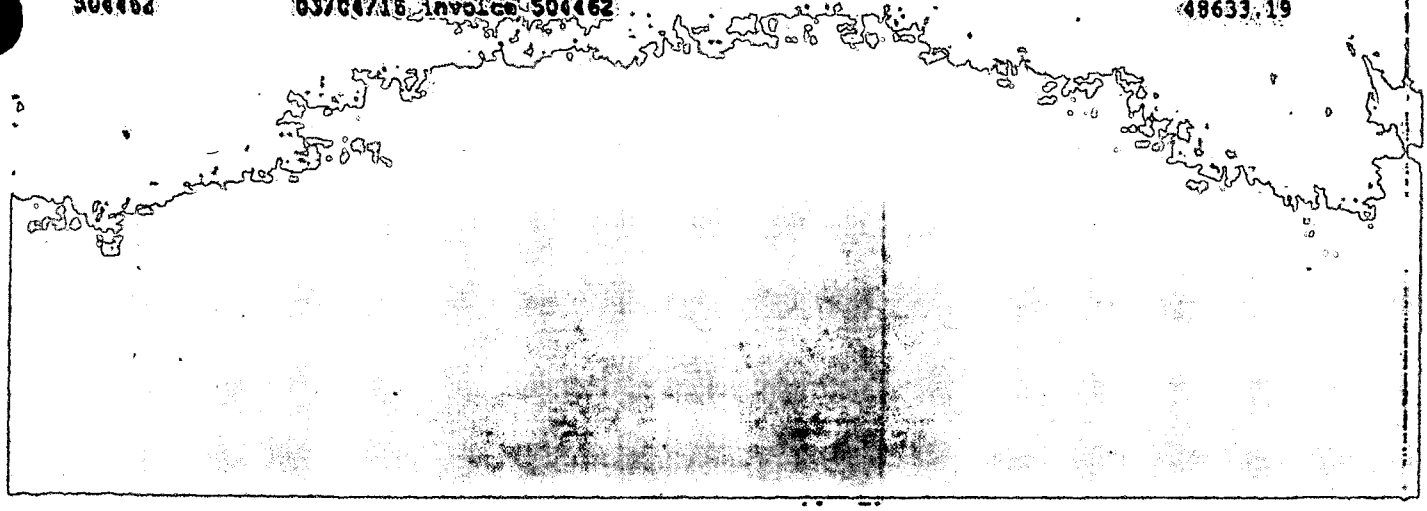
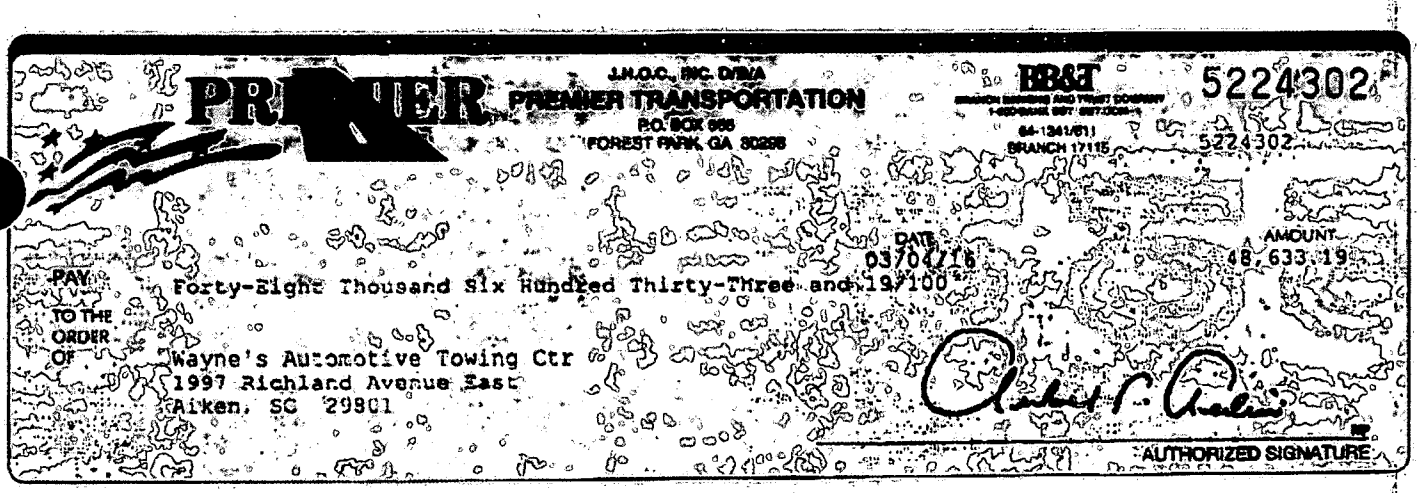
J.M.O.C. INC.
D/B/A PREMIER TRANSPORTATION

5224302

504162 03/04/16 Invoice 504162 48633.19





Wayne's Automotive and Towing Center

SCIM
Spill Containment Incident Management
1997 Richland Avenue East
Aiken, SC 29801

Invoice

Date	Invoice #
2/10/2016	504482

Bill To
J. H. O. C. INC Premier Transportation 323 CASH MEMORIAL BOULEVARD FOREST PARK GA 30297 282577

P.O. No.	Terms	Project
	Due Upon Receipt	

Description	Qty	Rate	Amount
Recovery 60 Ton Rotator HDS used for upright winching both tractor during first part of recovery and trailer last part of recovery and towing damaged trailer to storage yard 2:00 am-23:00 Per GPS Tracking Report	21	436.00	9,156.00
Class C Heavy Duty Truck HDS used for upright winching both tractor and trailer and towing of the tractor to the yard for storage	12	436.00	5,232.00
Labor and Equipment Tractor Trailer 53ft used for transferring the cargo [redacted]	13	436.00	5,668.00
Recovery Supervisor JC	21	175.00	3,675.00
Recovery Technician RH	21	150.00	3,150.00
Recovery Technician KJ	21	85.00	1,785.00
Recovery Technician JH	21	85.00	1,785.00
Recovery Technician BR	8	85.00	680.00
Recovery Technician WR	19	85.00	1,615.00
Response Unit used for transporting supplies: winch blocks, oil dry, absorbents, booms, back dock blower, brooms, shovels, etc.	20	175.00	3,500.00
Labor Hours for WRH	1.5	90.00	75.00
Labor Hours JS	7	50.00	350.00
Labor Hours PW	3.5	50.00	175.00
Labor Hours MR	7	50.00	350.00
Labor Hours KS	3.5	50.00	175.00
Labor Sublet from Verns Towing	1	1,000.00	1,000.00
Loading Dock Rental	1	750.00	750.00
Backhoe 420D and Transport and Heavy Operator	1	600.00	600.00
Skid Steer Track Loader and Transport	1	600.00	600.00

All QTY is per hours of usage.

Total	
Payments/Credits	
Balance Due	

Phone #	E-mail
803-226-0025	sherry@waynesautomotivecenter.com

Wayne's Automotive and Towing Center

SCIM
Spill Containment Incident Management
1997 Richland Avenue East
Aiken, SC 29801

Invoice

Date	Invoice #
2/10/2016	504462

Bill To

I. I. Q. C. INC.
Premier Transportation
323 CASH MEMORIAL BOULEVARD
FOREST PARK GA 30297
383777

P.O. No.	Terms	Project
	Due Upon Receipt	

Description	Qty	Rate	Amount
2 trips to the loading dock with cargo	2	250.00	500.00
DSRA Certified Incident Communication Equipment charge hourly	21	85.00	1,785.00
Emergency Digital Signage I-20 W Message Board exit 6 Detour Traffic with Cones	20	75.00	1,500.00
Emergency Digital Signage I-20 E Digital Arrow Board Light Tower	20	75.00	1,500.00
	8	75.00	600.00
Traffic Control High Intensity Sign 36x36 used a total of 4 on both East and West lanes for recovery and cargo and recovery	20	50.00	1,000.00
28 in. Traffic Cones total of 48 cones for recovery and cargo and recovery per hour	20	35.00	700.00
Pallets for Restocking the cargo	3	22.95	68.85
PIG MAT240 used to clean waste of fluids on the bridge	25	7.50	187.50
Containment Booms used for containment preventing release of chemicals and fluids into Savannah River below site	1	85.00	85.00
Containment Liner for storage of waste oil dry	1	175.00	175.00
Cargo Wrap	1	210.84	210.84

This price is with a lot of Item used Not Charged Out For and this price is only IF we Agree To Settlement

All QTY is per hours of usage.
OR I will Give The Total price of all Equipment, Manpower, Ect. For The Insurance Company to Review

Total	$48,633.19
Payments/Credits	$0.00
Balance Due	$48,633.19

Phone #	E-mail
803-226-0023	sherry@waynesautomotivecenter.com

Page 2

James and Diane Youngblood, Respondents,
v.
South Carolina Department of Social Services, Defendant,
v.
Jane and John Doe, Intervenors, of whom, Jane and John Doe are the Petitioners.

Appellate Case No. 2012-212047
Opinion No. 27232

STATE OF SOUTH CAROLINA In The Supreme Court

Heard January 8, 2013
Filed March 8, 2013

Summaries:

Source: Justia

The issue before the Supreme Court in this case was whether former foster parents had standing to petition to adopt a child placed for adoption by the Department of Social Services (DSS) with a different family. Upon review of the trial court record in this case, the Supreme Court concluded that the former foster parents possessed neither statutory or constitutional standing, and therefore vacated the order that granted the parents' petition, and remanded custody of the child to DSS for adoptive placement. "[R]ecognizing that children develop rapidly, and that stability and attachment are important components in their growth and development, [the Court directed] DSS to consider [the] child's present best interests in placing her for adoption."

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal from Pickens County
W. Marsh Robertson, Family Court Judge

REVERSED

Vanessa H. Kormylo, of Greenville, for Petitioners.
Sarah G. Drawdy, of The Drawdy Law Firm, LLC, of Anderson, for Respondents.

Page 2

JUSTICE HEARN: In this case we must decide whether former foster parents have standing to petition to adopt a child placed for adoption by the Department of Social Services (DSS) with a different family. We hold the former foster parents possess neither statutory nor constitutional standing, and reverse.

FACTUAL/PROCEDURAL BACKGROUND

Child was born in 2006 and is the youngest of five siblings. On August 28, 2007, the children were removed from their biological parents by DSS. Thereafter, on October 12, 2007, Child was placed for foster care with the Youngbloods and Child's siblings were placed with other foster care providers. Child remained with the Youngbloods continuously, although with regular sibling visitation, until June 24, 2009.

DSS informed the Youngbloods by mail on April 27, 2008, that adoption was Child's permanent care plan and advised them as to what actions they needed to take in order to be considered as adoptive parents for Child. The letter went on to state that "if the child in your home has a sibling or siblings placed in a different foster home, it will be the first priority of this agency to reunite and place these siblings together for the purpose of adoption." The Youngbloods applied to adopt Child and completed the required home study, but they did not apply to adopt her siblings.

On March 17, 2009, DSS informed the Youngbloods that they had not been selected as Child's adoptive parents and she had been

fast

placed with another family.[2] Specifically, the letter stated:

> Your adoptive home study has been received and approved. Please note that you had applied originally for the placement of [Child]. However, this sibling group of five has been placed together. Given these circumstances, your approved home study will be placed in our

Page 3

> state office files for consideration when a child with the characteristics in which you are interested in parenting become available for adoption.

The adoptive family selected by DSS was the Does. Subsequently, DSS gave the Youngbloods the requisite ten days' written notice of Child's removal from their foster care. From this point on, four separate, overlapping actions were filed: DSS's termination of parental rights suit, the Youngbloods' administrative appeal of Child's removal, the Youngbloods' adoption action, and the Does' adoption action.

First, on January 30, 2009, DSS filed an action seeking to terminate the parental rights of Child's parents. On May 8, 2009, the Youngbloods filed an administrative appeal with DSS's Fair Hearing Committee concerning the impending removal of Child from their home. Child was removed from the Youngbloods' home on June 24, 2009, and placed, along with her siblings, with the Does. Then, on July 6, 2009, the Youngbloods filed the instant adoption action in family court for the adoption of Child, naming DSS as defendant. On July 29, 2009, the Does filed an action petitioning the family court to permit them to adopt Child and her four siblings.

On July 30, 2009, the Fair Hearing Committee issued a final administrative order denying the Youngbloods' administrative appeal. The Committee stated the issues before it were whether DSS followed the requisite procedure in removing Child and whether DSS afforded the Youngbloods due process. The Committee found DSS followed the required procedure by giving the Youngbloods ten days' notice of the removal and afforded them procedural and substantive due process because it provided notice and a rational explanation—placement with her siblings—for the removal. The Youngbloods did not appeal the Committee's decision.

In the Youngblood's adoption action, the family court entered an expedited temporary order on August 4, 2009, granting them custody of Child. The court also granted a motion to intervene by the Does, found that visitation between Child and her siblings would be in her best interests, and directed the parties, Child's therapist, and the guardian *ad litem* to formulate a visitation schedule.

On August 24, 2009, the family court entered a final order in DSS's termination of parental rights action granting the requested termination. Additionally, the order provided: "Custody of the Defendant children shall be

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granted to the South Carolina Department of Social Services, with all rights of Guardian ad Litemship, placement, care and supervision, including the sole authority to consent to any adoption. . . ."

On May 4, 2010, the family court entered a final adoption order for Child's four siblings declaring the Does to be the legal parents of those four children. However, the family court took no action regarding Child due to the Youngbloods' pending adoption action.

In the Youngbloods' adoption action, both the Does and DSS moved to dismiss on the grounds the Youngbloods lacked standing and were statutorily barred from adopting Child because DSS had not consented to the adoption. The family court found the Youngbloods had standing pursuant to Section 63-9-60 of the South Carolina Code (2012). The court distinguished *Michael P. v. Greenville County Department of Social Services*, 385 S.C. 407, 684 S.E.2d 211 (Ct. App. 2009), in which the court of appeals held that former foster parents did not have standing to seek adoption of a child in DSS's custody, on the basis that here, the Youngbloods informed DSS of their desire to adopt Child, obtained DSS's approval to serve as adoptive parents prior to removal of Child,[3] and timely pursued an administrative appeal of the removal of Child. The family court then considered Child's best interests and granted the Youngbloods' petition to adopt Child, subject to sibling visitation.

The Does and the Youngbloods filed cross-appeals with the court of appeals. Relevant to our writ of certiorari, the Does asserted that the family court erred in finding the Youngbloods had standing to adopt, granting the Youngbloods' adoption petition without the consent of DSS, and finding adoption of Child by the Youngbloods was in Child's best interests.[4] *Youngblood v. DSS*, Op. No. 2012-UP-172 (S.C. Ct. App. filed March 8, 2012).

In a per curiam, unpublished opinion, the court of appeals ruled against the Does on all grounds. The court acknowledged the holding in *Michael P.* that former foster parents do not have standing under section 63-9-60 to seek adoption of a child placed in an adoptive home by DSS, and noted that the Youngbloods'

"broad window to petition the family court under section 63-9-60(A)(1) had closed." However, the court of appeals, apparently sua sponte, held that Section 63-9-310(D) of the South Carolina Code (2010) provided standing to the Youngbloods. According to that section, when DSS denies consent to adopt to a person eligible under section 63-9-60, it has "an affirmative duty to inform the person who is denied consent of all of his rights for judicial review of the denial." S.C. Code Ann. § 63-9-310(D). Based on that provision, the court of appeals held:

> any person who is initially eligible to adopt under section 63-9-60 and who is aggrieved by a child-placing agency's decision to deny them consent to adopt a specific child may petition the family court to review the child-placing agency's decision in order to determine whether it was in the child's best interests.

Finally, the court affirmed the family court's finding that placement with the Youngbloods was in Child's best interests, holding the Does failed to present sufficient evidence to meet their burden on this issue.

ISSUES

I. Did the court of appeals err in holding the Youngbloods had standing to petition to adopt Child?

II. Did the court of appeals err in affirming the family court's grant of the Youngbloods' petition to adopt despite the lack of consent by DSS?

LAW/ANALYSIS

I. STANDING

Standing, a fundamental prerequisite to instituting an action, may exist by statute, through the principles of constitutional standing, or through the public importance

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exception. *Freemantle v. Preston*, 398 S.C. 186, 192, 728 S.E.2d 40, 43 (2012). Statutory standing exists, as the name implies, when a statute confers a right to sue on a party, and determining whether a statute confers standing is an exercise in statutory interpretation. *See id.* at 194-95, 728 S.E.2d at 44-45; *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 97 n.2 (1998) (stating the issue of statutory standing as "whether this plaintiff has a cause of action under the statute"). When no statute confers standing, the elements of constitutional standing

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must be met.[5] To possess constitutional standing, first, a party must have suffered an injury-in-fact which is a concrete, particularized, and actual or imminent invasion of a legally protected interest. *ATC South, Inc. v. Charleston Cnty.*, 380 S.C. 191, 195, 669 S.E.2d 337, 339 (2008) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992)). Second, a causal connection must exist between the injury and the challenged conduct. *Id.* Finally, it must be likely that a favorable decision will redress the injury. *Id.*

First, while the family court found statutory standing pursuant to section 63-9-60, we hold that statute does not give the Youngbloods standing; instead, it specifically deprives them of standing. Section 63-9-60 provides:

> (A)(1) Any South Carolina resident may petition the court to adopt a child.
> ....
> (B) This section does not apply to a child placed by the State Department of Social Services or any agency under contract with the department for purposes of placing that child for adoption.

Thus, while section 63-9-60(A) broadly grants standing to "any South Carolina resident," section 63-9-60(B) makes that grant of standing inapplicable to a child placed for adoption by DSS. *See Michael P.*, 385 S.C. at 415, 684 S.E.2d at 215 (holding former foster parents did not have standing to adopt under section 63-9-60 because the child had been placed by DSS for adoption).

The court of appeals dealt with the interplay of 63-9-60(A) and (B) in *Michael P.*, where a child was removed from his mother by DSS and placed in foster care. *Id.* at 410, 684 S.E.2d at 212. When DSS approached the foster parents about adopting the child, they declined. *Id.* DSS then removed the child from the foster home and placed him for adoption. *Id.* Unhappy with the placement, the former foster parents petitioned to adopt the child. *Id.* The prospective adoptive parent selected by DSS intervened and moved to dismiss the action on the ground the foster parents lacked standing. *Id.* at 411, 684 S.E.2d at 213. The foster parents asserted they had standing both under section 63-9-60 and because they were foster parents. *Id.* at 412, 684 S.E.2d at 213. The family court granted the motion to dismiss, and the foster parents appealed. *Id.* at 412-13, 684

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S.E.2d. at 213-14. The court of appeals first dismissed the foster parents' argument that subsection (B) does not apply to section 63-9-60 in its entirety. *Id.* at 415, 684 S.E.2d at 215. Relying on subsection (B), the court of appeals held that "not just any 'South Carolina resident' can petition to adopt a child when the child has been placed by DSS in another home for the purposes of adoption," and therefore, concluded the foster parents did not have standing under section 63-9-60(A) because the child had been placed by DSS in another home for adoption. *Id.*

Here, the family court distinguished the *Michael P.* decision, finding that under the

facts of this case, section 63-9-60 created standing because the Youngbloods informed DSS of their desire to adopt Child, received DSS's approval to adopt prior to the placement of Child, had their foster care contract terminated, and pursued an administrative challenge to Child's removal. It is important to note that while the Youngbloods received DSS's approval to serve as adoptive parents generally, they did not receive approval to adopt Child. While both couples were approved for adoption, only the Does had DSS's consent to adopt Child. Because the statute does not permit any exceptions and plainly states that the section 63-9-60(A) grant of standing does not apply to children placed by DSS, the family court erred in grounding standing on section 63-9-60.

The court of appeals, as an alternative to section 63-9-60, held, based on DSS's denial of consent for the Youngbloods to adopt Child, that section 63-9-310(D) created standing. In short, the court of appeals held that under section 63-9-310, a person denied consent to adopt by DSS has a statutory right to petition the family court for judicial review of that denial. We disagree.

Section 63-9-310 provides:

> (B) Consent or relinquishment for the purpose of adoption is required of the legal guardian, child placing agency, or legal custodian of the child if authority to execute a consent or relinquishment has been vested legally in the agency or person and:
>
> > (1) both the parents of the child are deceased; or (2) the parental rights of both the parents have been judicially terminated.
>
> ....
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> Page 8
>
> (D) If the consent of a child placing agency required by this subsection is not provided to any person eligible under Section 63-9-60, the agency has an affirmative duty to inform the person who is denied consent of all of his rights for judicial review of the denial.

S.C. Code Ann. § 63-9-310. The statute defines consent as: "the informed and voluntary release in writing of all custodial or guardianship rights, or both, with respect to a child by the child placing agency ...." S.C. Code Ann. § 63-9-30(6) (2010).[6]

First, section 63-9-310(D) does not apply to the Youngbloods because they were not persons eligible under section 63-9-60. They were denied consent to adopt Child in DSS's March 17, 2009 letter, and Child had already been placed with the Youngbloods as of that date. Therefore, under section 63-9-60(B), the Youngbloods were not persons eligible to adopt Child when they were denied consent.

Furthermore, section 63-9-310(D) does not provide a right to judicial review. While it does direct DSS to inform a person denied consent of "all of his rights to judicial review," a statutory directive to inform persons of their rights does not in itself create rights. Although it is curious that the General Assembly would direct DSS to inform persons of their rights to judicial review if no such rights exist, where the plain language of a statute is unambiguous we are charged with implementing it. *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). Here, the statute unambiguously does nothing more

than direct DSS to inform persons of any rights they may have.

Therefore, we must look elsewhere to determine whether a right to judicial review and standing exist. The parties did not direct us to a statute providing a right to judicial review and reviewing the entirety of the South Carolina Children's Code as well as the applicable regulations, we found no mention of judicial review for the denial of consent to adopt, other than section 63-9-310(D). To the contrary, DSS's regulations provide:

> A. Application to Become Adoptive Parent - Right to Appeal
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> Page 9
>
> (1) A person is entitled to appeal the Department's decision to deny or terminate its approval of that person to become an adoptive parent.
> (2) A person is not entitled to appeal the Department's decision to deny its consent or refuse approval of the applicant for adoption of a specific child . . .

10 S.C. Code Ann. Regs. § 114-150 (2012).

Lacking a statutory right to judicial review, we must determine whether the denial of consent implicates a legal interest held by the Youngbloods, and thus whether due process requires judicial review and they possess constitutional standing. *See ATC South*, 380 S.C. at 195, 669 S.E.2d at 339 (constitutional standing requires an injury to a legally protected interest); *Sullivan v. S.C. Dept. of Corr.*, 355 S.C. 437, 444-45, 586 S.E.2d 124, 127-28 (2003) (a prisoner was not entitled to judicial review of the denial of his application to participate in a treatment program because he did not have a protected interest in participation in the program); *Al-Shabazz v. State*, 338 S.C. 354, 368-72, 527 S.E.2d 742, 749-52 (1999) (holding that because a prisoner's good-time credits are a protected liberty interest under the Fourteenth Amendment, procedural due process requires judicial review when they are taken as punishment).

First, the court of appeals' holding that any person denied consent to adopt has standing to seek review of the agency's decision is erroneous because there is no general legal interest in the adoption of any child. Rather, any protected interest a person may have in a child must arise from some legally recognized connection between the child and the adult. *See Smith v. Org. of Foster Families for Equal. & Reform*, 431 U.S. 816, 841-47 (1977) (indicating that only some relationships between an adult and a child are legally protected).

However, the Youngbloods were not just any persons--they were Child's foster parents. While the foster care relationship undoubtedly often results in emotional attachments between the foster parent and foster child, the relationship is only a temporary, contractual relationship created by the State. *See Smith*, 431 U.S. at 845-46 (recognizing the foster care relationship as derived from state law and contractual arrangements); *Michael P.*, 385 S.C. at 416, 684 S.E.2d at 216 (same); 10 S.C. Code Regs. 114-550(A)(1) (2012) (defining foster care as "a temporary living arrangement within the structure and atmosphere of a private family home, [which] is utilized while permanent placement plans are being formulated for the involved children"). Accordingly, the foster parent relationship,

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absent statutory law to the contrary, is insufficient to create a legally protected interest in a child and therefore, does not create standing to petition to adopt.

While these conclusions necessarily flow from the South Carolina Children's Code and our standing and due process jurisprudence, they are also supported by the policy behind the Children's Code. The General Assembly has entrusted DSS with the care and placement of children removed from their homes. *See* S.C. Code Ann. § 63-7-660 (2010) (DSS may remove a child from his or her home and has legal custody of the child thereafter if there is probable cause to believe abuse or neglect has occurred); § 63-9-310(B) (DSS must consent to the adoption of any child in DSS's custody); § 63-9-1810 (2010) (DSS has authority to promulgate regulations governing the adoption of children); § 63-11-60 (2010) (DSS may place children in foster homes and remove them when it believes a child's welfare so requires). Furthermore, the Child Protection and Permanency Chapter of the Children's Code, Section 63-7-10, *et seq.*, under which the termination of parental rights provisions are found, states that its purpose is to "ensure permanency on a timely basis for children when removal from their homes is necessary." S.C. Code Ann. § 63-7-10-(B)(3) (2010). Permitting any person, or even just foster parents, to petition to adopt a child placed elsewhere for adoption by DSS directly contradicts the power and discretion given to DSS and undermines the goal of rapidity in permanently resolving children's placement issues.

The Youngbloods argue that denying them standing to petition to adopt will result in Child's best interest never being considered and give DSS unfettered power to make decisions affecting the welfare of children. However, those fears are unfounded. In administering its adoption program, DSS is statutorily charged with serving the best interests of the child. S.C. Code Ann. § 63-9-1310 (2010) ("It is the purpose of this article to achieve the objective of the best interests of the child, as the primary client. Adoption programs must be structured so that all questions of interpretation are resolved with that objective in mind."). Additionally, the Children's Code requires that at the adoption hearing, the family court must consider whether "the best interests of the adoptee are served by the adoption," before deciding to grant or deny DSS's proposed adoption. S.C. Code Ann. § 63-9-750(B)(6) (2010). Furthermore, in every adoption proceeding the child must have a guardian *ad litem* and also, if necessary, an attorney, representing his or her best interests. *See* S.C. Code Ann. § 63-7-2560(B) (2010). Therefore, while DSS may make the initial adoption placement decision for a child in its custody, DSS's decision is subject to judicial review and will be denied if not in the child's best interests.

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II. CONSENT

Because the Youngbloods' lack of standing is dispositive, we need not reach the issue of DSS's consent. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (declining to address the remaining issues where a prior issue was dispositive).

CONCLUSION

In order to ensure that our State resolves the permanent placement of children in its custody promptly, the General Assembly has entrusted DSS with discretion in making the initial decision as to the adoption of such children, and the rights of others to petition to adopt have been limited. If any person could petition to adopt a child in DSS's custody despite DSS having placed the child with another, the placement of such children would become protracted contests, like the instant case, in which the vital interests of stability, permanency, and attachment would be irretrievably lost to the passage of time. Nonetheless, we are deeply troubled by the notion of again uprooting and moving Child.

Accordingly, we vacate the order granting the Youngbloods' petition to adopt Child, and

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we remand the custody of Child to DSS for adoptive placement. However, recognizing that children develop rapidly, and that stability and attachment are important components in their growth and development, we direct DSS to consider Child's present best interests in placing her for adoption.

TOAL, C.J., PLEICONES, BEATTY, and KITTREDGE, JJ., concur.

Notes:

1. Initially, one of Child's brothers was placed with the Youngbloods as well, but due to his behavioral problems, he was moved to a different placement after only a few weeks.

2. Rather than its ordinary meaning connoting a change in physical location, the verb "place" is used by the statutory language and DSS to mean the selection of an adoptive family. While Child had been placed with another family as of March 17, 2009, she physically remained in the care of the Youngbloods at that time.

3. Presumably, this refers to the approval of the Youngbloods' home study and thus, to their approval to adopt a child. The Youngbloods never received DSS approval to adopt Child.

4. The Does did not seek certiorari on the issue of Child's best interests, and the Youngbloods did not seek certiorari on any of the issues presented in their appeal.

5. While the public importance exception may provide standing where the elements of constitutional standing are not met, the exception was not raised in this action.

6. Additionally, the South Carolina Children's Code requires that a consent be a sworn document containing specific information. S.C. Code Ann. § 63-9-330 (2010).

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511 S.E.2d 48

D. Carroll GARRIS, Respondent/Appellant,
v.
The GOVERNING BOARD OF the SOUTH CAROLINA REINSURANCE FACILITY and the South Carolina Reinsurance Facility, Appellants/Respondents.

No. 24871.

Supreme Court of South Carolina.

Heard November 4, 1998.

Decided December 29, 1998.

Rehearing Denied March 5, 1999.

[333 S.C. 436]

Thomas C. Salane of Turner, Padget, Graham & Laney, P.A., Columbia, for Appellants/Respondents.

Thornwell F. Sowell of Sowell, Todd, Laffitte, Beard & Watson, L.L.C., Columbia, and Jeffrey A. Jacobs of Nelson Mullins Riley & Scarborough, L.L.P., Columbia, for Respondent/Appellant.

WALLER, Justice:

This appeal follows the circuit court's reversal of the decision of the Board of Governors (the Governing Board) of the South Carolina Reinsurance Facility (Facility) to revoke D. Carroll Garris's (Garris) status as a designated agent. We affirm in part, reverse in part, and remand for further proceedings.

FACTS

Garris, a licensed insurance agent, is a designated agent of

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Facility. Prompted by an audit performed by one of Facility's servicing carriers, Facility began investigating allegations of underwriting irregularities at Garris's agency in mid-1993. Facility issued a notice of hearing and rule to show cause seeking to revoke Garris's status as a designated agent in December 1993. Facility alleged Garris had improperly classified private risks as commercial risks (which have lower premiums that are not subject to recoupment fees), insured "phantom" vehicles, wrote duplicate coverages, endorsed policies to insure additional vehicles after a policy had been canceled, and violated trust accounting procedures.

The Governing Board voted in November 1994 to revoke Garris's status as a designated agent. Garris petitioned the circuit court for review. The circuit court, following additional discovery, reversed the Governing Board's decision in November 1997. Both parties now appeal the circuit court's decision.

ISSUES

1. Did the circuit court err in ruling that Governing Board members who voted to revoke Garris's status as a designated agent acted as prosecutor and adjudicator in violation of Article I, Section 22 of the state constitution?

2. Did the circuit court err in ruling that the doctrine of res judicata bars Garris's argument about the composition of the Governing Board?

3. If res judicata does not bar Garris's argument, did the circuit court err in ruling that the composition of the

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Governing Board violates Article III, Section 1 of the state constitution?

4. Did the circuit court err in ruling that proxies were properly exercised and a quorum was present at Garris's hearing before the Governing Board?

1. ARTICLE I, SECTION 22

The circuit court reversed the Governing Board's decision to revoke Garris's status as a designated agent, finding the procedure followed by Facility unconstitutional. Under the state constitution, a person shall not "be subject to the same person for both prosecution and adjudication." S.C. Const. art. I, § 22.[3] Facility now argues the circuit court erred for three reasons.

A. FACILITY IS AN ADMINISTRATIVE AGENCY

Facility contends it is a private organization that merely acts as a statutory agent for the automobile insurance industry. Facility argues it receives no state funding, has no rule-making authority, and is subject to regulation by a state agency, the South Carolina Department of Insurance. Consequently, Facility argues it is not an "administrative agency" for purposes of Article I, Section 22 under the statute creating it or the Administrative Procedure Act (APA), S.C.Code Ann. §§ 1-23-10 to -660 (1986 & Supp.1997). We disagree.

An agency "means each state board, commission, department, executive department or officer, other than the legislature or the courts, authorized by law to make regulations or to determine contested cases." S.C.Code Ann. § 1-23-10(1) (1986) (emphasis added); *accord* S.C.Code Ann. § 1-23-310(1) (Supp.1997) (agency "means each state board, commission, department or officer, other than the legislature or the courts,

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but to include the Administrative Law Judge Division, authorized by law to determine contested cases"). It is true that Facility, a statutory creature, "is subject to regulations and orders promulgated by the director [of the Department of Insurance] or his designee." S.C.Code Ann. §§ 38-1-20(16) and XX-XX-XXX (Supp.1997).

Facility clearly possesses rule-making authority in the area of automobile insurance, a subject that touches the life of most South Carolinians. *See* S.C.Code Ann. § 38-77-520 (Supp. 1997) (every automobile insurer in South Carolina is bound by Facility's plan of operation as approved by the director of the Department of Insurance and by rules lawfully prescribed by Facility's Governing Board); S.C.Code Ann. § 38-77-596 to -610 (Supp.1997) (Facility must calculate and file recoupment fees that are assessed on all automobile insurance policies in South Carolina, and changes in rates are subject to public hearing pursuant to APA). *See also Garris v. Governing Board of South Carolina Reinsurance Facility*, 319 S.C. 388, 461 S.E.2d 819 (1995) (applying APA to remand case for failure to exhaust administrative remedies); *Moore v. South Carolina Reinsurance Facility*, 297 S.C. 276, 376 S.E.2d 510 (1989) (applying APA in deciding whether Facility properly refused to certify each of designated agent's existing locations); *Grain Dealers Mut. Ins. Co. v. Lindsay*, 279 S.C. 355, 306 S.E.2d 860 (1983) (upholding Facility's power to enact rules regarding the distribution of Facility losses); *Mungo v. Smith*, 289 S.C. 560, 347 S.E.2d 514 (Ct.App.1986) (applying APA to decide that designated agent's status may not be revoked arbitrarily, but must be based upon substantial evidence); S.C.Code Ann. § 38-77-

510 (Supp.1997) (designating Facility as a "using agency," which is defined as "any governmental body of the State which utilizes any supplies, services, or construction purchased" under state Procurement Code).

Facility has the authority to assign the status of designated agent to an individual, as well as the authority to revoke that designation. S.C.Code Ann. §§ 38-77-590 to -595 (Supp. 1997). Facility argues it does not decide "contested cases" as such cases are defined in the APA. *See* S.C.Code Ann. § 1-23-310(2) (Supp.1997) (contested case "means a proceeding, including but not restricted to ratemaking, price fixing, and licensing, in which the legal rights, duties or privileges of a

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party are required by law to be determined by an agency after an opportunity for hearing"). Nevertheless, Facility assured Garris during the course of its investigation that "a full contested type hearing will be offered to you at which time your response can be as full and complete as you deem appropriate." Facility concedes in its brief that, while it does not believe it is an administrative agency, it "has no objection to following due process standards applicable under the APA in all hearings before the Board."

We have interpreted Section 1-23-310(2) to mean that a "contested case" is one in which an agency is required by law to determine a party's rights after an opportunity for a hearing. *League of Women Voters of Georgetown County v. Litchfield-by-the-Sea*, 305 S.C. 424, 426, 409 S.E.2d 378, 380 (1991); *Triska v. Dep't of Health and Envtl. Control*, 292 S.C. 190, 196, 355 S.E.2d 531, 534 (1987). No statute explicitly requires Facility to hold a hearing before revoking an agent's status as a designated agent; therefore, Garris's case is not a "contested case" as defined in the APA.

However, we also have held that Article I, Section 22 requires an administrative agency to give procedural due process to parties that come before it even though a matter may not be a "contested case" as defined in the APA. *See League of Women Voters of Georgetown County, supra* (finding that certification process as outlined in then prevailing statutes and regulations was not a "contested case" as defined in APA, which meant League was not entitled to a hearing under APA; but concluding League was entitled to notice, a hearing, and judicial review under Article I, Section 22); *Stono River Envtl. Protection Ass'n v. South Carolina Dep't of Health and Envtl. Control*, 305 S.C. 90, 93, 406 S.E.2d 340, 342 (1991) (stating same principle).

We affirm the circuit court's ruling and hold that Facility is an administrative agency because it meets the rule-making component of the APA definition. *See Mungo v. Smith, supra* (where a statute contains two clauses which prescribe its applicability and the clauses are connected by the disjunctive "or," application of the statute is not limited to cases falling within both clauses, but applies to cases falling within either). Accordingly, Facility must comply with the procedural due

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process protections established in Article I, Section 22 even though Garris's case is not a "contested case" as defined in the APA.

B. SAME PERSONS AS PROSECUTOR AND ADJUDCATOR

Facility argues the "same persons" were not engaged in both the prosecution and adjudication of Garris's case. We disagree.

The Governing Board oversees Facility operations by considering matters in various committees, which make recommendations to other committees and the Governing Board. Governing Board member James Lingle was present as a member at an Audit Committee

meeting October 20, 1993. Governing Board members Jim Thompson, Clark Hobbie, Thomas Kepley, C.M. Dinwiddie, and Frank Lee were present as observers at the meeting. Larry Griner, who is not a Governing Board member but ultimately exercised another member's proxy and voted on the Garris matter, also was present as an observer. Garris was not present or represented at the meeting.

At that meeting, a Facility auditor who had examined Garris's records and practices reported her findings in detail. The Audit Committee, following a "lengthy discussion," unanimously voted to refer the matter the Designated Agent Committee, the Operating Committee, and the state Department of Insurance.

Governing Board members Jim Thompson, Robert Herlong, Phillip Love, Thomas Reichard, and Arthur Ivey were present as members at an Operating Committee meeting October 29, 1993. Governing Board members Steve Dennis, Hobbie, Randall Thompson, and Lee were present as observers at the meeting. Non-member Griner again was present as an observer. Garris was not present or represented at the meeting.

At that meeting, a Facility official discussed the auditor's report on Garris, called members' attention to the auditor's written report that was attached as an exhibit to the agenda, and described the Audit Committee's earlier motion. Committee members discussed the Garris matter in executive session.

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Governing Board members Hobbie, Kepley, and Lee were present as members at a Designated Agent Committee meeting December 13, 1993. Non-member Griner again was present as an observer. Garris appeared and answered the committee's questions.

At that meeting, the committee discussed the matter in executive session, then had a "lengthy discussion" about it in open session. The committee voted unanimously to recommend that the Governing Board revoke Garris's status as a designated agent. The committee further recommended that the Governing Board hold a special meeting to consider the matter. Facility served a notice and rule to show cause upon Garris on December 20, 1993, requiring him to appear before the Governing Board.

Of the members named above, Dennis, Jim Thompson, Herlong, Hobbie, and Love attended the three-day hearing on the Garris matter in August 1994. All voted in favor of revoking Garris's status as a designated agent on November 21, 1994. Non-member Griner also attended the hearing as the holder of Randall Thompson's proxy. Griner exercised the proxy to vote in favor of revoking Garris's status. The Governing Board voted 8-2 to revoke Garris's status.

Reichard and Lee also attended the entire hearing. Reichard did not vote because Garris was a designated agent of his company. *See* S.C.Code Ann. § 38-77-585 (Supp.1997) (prohibiting member from voting on any issue materially affecting the member's employer). Lee recused himself because he had considered the matter in committee. Lee also was chairman of the Designated Agent Committee at the time, and had referred the Garris matter for investigation as early as May 1993 after hearing reports of underwriting irregularities at Garris's agency. Lee testified the purpose of the Designated Agent Committee meeting was to gather information about Garris's case.

Kepley did not attend the hearing but gave his proxy to Love, instructing him before the hearing to vote to revoke Garris's status.

Love refused to accept the proxy in that fashion, so Kepley gave him an unconditional proxy.[3]

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The bottom line is that five Governing board members and one non-member attended, as a member or observer, one or more committee meetings at which the Garris matter was discussed extensively in open and executive sessions. All six voted to revoke Garris's status as a designated agent. Of those six, four (Jim Thompson, Herlong, Hobbie, and Love) were members of the committees which considered the Garris matter. In addition, two other Governing Board members attended one or more committee meetings and the entire hearing, but did not vote.

Facility now contends the circuit court erred in finding the procedure unconstitutional because none of the committee *members* —except Hobbie—voted or participated in the hearing. The Governing Board would have revoked Garris's status even without Hobbie's vote, Facility argues. Facility addresses only the Audit and Designated Agent Committee meetings in its brief. At oral argument, Facility dismissed the Operating Committee meeting as irrelevant because no vote was taken.

The court may reverse or modify the decision of an administrative agency when an appellant's substantial rights have been prejudiced because the agency's findings, inferences, conclusions, or decisions are, among other things, in violation of constitutional or statutory provisions, or made upon unlawful procedure. S.C.Code Ann. § 1-23-380(A)(6) (Supp.1997).

"[A] fair trial in a fair tribunal is a basic requirement of due process, [and] [t]his applies to administrative agencies which adjudicate as well as to courts." *Withrow v. Larkin*, 421 U.S. 35, 46, 95 S.Ct. 1456, 1464, 43 L.Ed.2d 712, 723 (1975) (upholding process in which state medical board suspended physician's license after investigating and hearing the case). The fact that investigative, prosecutorial, and adjudicative functions are performed within the same agency, or even performed by the same persons within an agency, does not, without more, constitute a violation of due process. "That is not to say that there is nothing to the argument that those

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who have investigated should not then adjudicate," and a court facing special facts and circumstances in a particular case may determine that dual roles are impermissible. *Id.* at 51-58, 95 S.Ct. at 1466-70, 43 L.Ed.2d at 726-29. Agency officials or members who adjudicate a matter are presumed to be honest, fair, and unbiased. A party challenging the combination of investigative and adjudicative functions must convince the court that, under a realistic appraisal of psychological tendencies and human weakness, conferring both functions on the same individuals poses such a risk that it is likely to violate due process. *Id.* at 47, 95 S.Ct. at 1464, 43 L.Ed.2d at 724.

While *Withrow v. Larkin* established the parameters of due process safeguards in administrative proceedings under the federal constitution, Article I, Section 22 of our constitution explicitly addresses procedural due process in such proceedings. Section 22 provides for notice, an opportunity to be heard, an impartial adjudicator, and judicial review. We have recognized that Section 22 is an additional guarantee of important due process rights, enacted in 1970 as legislators and judges noticed the increasing prevalence and influence of administrative agencies in daily life. *See Ross v. Medical Univ. of South Carolina*, 328 S.C. 51, 492 S.E.2d 62 (1997).

In *Ross*, we found the purpose of Section 22 "is to ensure adjudications are conducted by impartial administrative bodies. Partiality exists where, among others, an adjudicator has *ex parte* information as a result of prior investigation or has developed, by prior involvement in the case, a 'will to win.'" *Id.* at 69, 492 S.E.2d at 72. We did not find a violation of Section 22 where the university's president investigated a tenured professor's conduct, terminated the professor, and then testified against him at a committee hearing. The president did not later participate as an adjudicator, and he did not improperly consider *ex parte* information. *Id.* However, we did find a violation of Section 22 where a university vice-president investigated the professor's case, testified as an adverse witness at a committee hearing, and sat as the intermediate judge in a three-step disciplinary procedure. *Id.* at 70, 492 S.E.2d at 72.

We hold that Facility violated Article I, Section 22 because the same persons served as prosecutor and adjudicator. We

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disagree with Facility's effort to ignore the Operating Committee meeting, which obviously was part of the investigative and prosecutorial processes because the Garris matter was referred to it. When all three committee meetings are considered, it is clear that five Governing Board members and one non-member attended, as a member or observer, one or more committee meetings at which the Garris matter was discussed extensively in open and executive sessions. At only one of those committee meetings was Garris given a chance to respond. All five members and the one non-member later sat as adjudicators and voted to revoke Garris's status as a designated agent.

We also disagree with Facility's effort to describe the process as one in which Governing Board members were "merely exposed" to the charges and facts of the case. Kepley's attempt to give a fellow board member his proxy to vote in favor of revoking Garris's status plainly shows that at least one member had formed an opinion before the hearing. But Kepley's action, while relevant and revealing, is not primarily what leads us to conclude that Garris did not receive procedural due process because members or officials of an agency who adjudicate a matter are presumed to be honest, fair, and unbiased. *See Withrow v. Larkin, supra; City of Alma v. United States*, 744 F.Supp. 1546, 1561 (S.D.Ga.1990) (an agency official is not deemed unfit to perform her statutory duty merely because she previously has taken a position on issues related to the case before her; even if she expressed her opinion publicly).

Instead, what leads us to conclude that Garris did not receive procedural due process is the inherently flawed structure of the investigative and prosecutorial processes that placed future adjudicators in situations where they had the opportunity to form such premature opinions. Although Hobbie may have been the only committee member who actually *voted* both for the investigation to continue *and* to revoke Garris's status as a designated agent, the other five members heard and engaged in extensive debate about Garris's case in committee meetings before the hearing. We agree with the circuit court that Governing Board members were intimately involved in the investigative and prosecutorial processes as committee members.

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We further agree with the circuit court's decision to reject as incredible the testimony of Governing Board members who insisted they either could not remember committee discussions or based their decision solely on evidence presented at the hearing. Allowing

an agency official or board member to sidestep Article I, Section 22 merely by stating, in rote fashion, that he or she based a decision only on evidence presented at the hearing would render the constitutional prohibition a nullity.

In short, under a realistic appraisal of psychological tendencies and human weakness, we conclude that Governing Board members who participate in the investigation or prosecution of a designated agent as a member or observer at a committee meeting may not participate as adjudicators of that agent's case at a subsequent hearing. Members who participate in the investigation or prosecution of a case must distance themselves from the adjudicatory process, and should refrain from even discussing that case with future adjudicators. *See Withrow v. Larkin, supra.* Such a rule will reduce or eliminate adjudicators' exposure to *ex parte* information, as well as the inevitable human tendency to develop a will to win. *See Ross v. Medical Univ. of South Carolina, supra.*

Our view is consistent with the approach taken by most courts today. Courts generally discourage agency staff and members from simultaneously acting as investigator, prosecutor, and judge.[4] "It is proper to have some blend of judicial and prosecutorial functions in an administrative proceeding, provided that the person performing the quasi-prosecutorial function is not a member of the decision-making body." *Waste Mgt. v. Pollution Control Bd.*, 175 Ill.App.3d 1023, 125 Ill.Dec. 524, 530 N.E.2d 682, 694 (1988). *Accord Babcock Center, Inc. v. Office of Audits*, 286 S.C. 398, 334 S.E.2d 112 (1985) (holding that administrative agency may adjudicate appeals by panels composed of other persons within the same

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agency who did not participate in investigative or prosecutorial capacities); 4 Stein, Mitchell, and Mezines, *Administrative Law*, § 33.02[1] to [4] (1998) (discussing separation of functions and stating that such conflicts can easily be avoided by isolating agency personnel or board members into investigatory, prosecution, and adjudicatory positions).[5]

C. HARMLESS ERROR

Facility contends any error in the handling of Garris's case, including bias by persons not serving as adjudicators and exposure by adjudicators to committee activities, is harmless error and provides no basis for reversing the board's decision. We disagree.

In *Ross v. Medical Univ. of South Carolina, supra*, we found the vice-president's participation as an investigator, witness, and intermediate judge to be harmless error because the university's board independently reviewed the record of the committee hearing, heard oral arguments from the parties, and conducted its own deliberations. *Id.*, 328 S.C. at 70, 492 S.E.2d at 72.

In this case, the Governing Board acted as the final adjudicator in Garris's case. Five members and one non-member participated as members or observers in prior committee meetings where Garris's case was extensively discussed. Those six persons sat in judgment of Garris at the hearing and cast six of the eight votes to revoke his status as a designated agent. We conclude the structure of the proceeding in this case was so inherently flawed that it is not subject to harmless

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error analysis. *Cf. Arizona v. Fulminante*, 499 U.S. 279, 307-09, 111 S.Ct. 1246, 1263-64, 113 L.Ed.2d 302, 329-31 (1991) (dividing constitutional errors into "trial errors" and "structural defects," with the latter defying analysis by harmless error standards because

they affect the framework within which a trial proceeds, rather than simply an error in the trial process itself); *State v. Byrd*, 318 S.C. 247, 456 S.E.2d 922 (Ct.App. 1995) (same).

In sum, we conclude Facility is an administrative agency; the same persons served as both prosecutors and adjudicators in violation of Article I, Section 22, and the process was so inherently flawed that it is not subject to harmless error analysis.

2. *RES JUDICATA*

Garris, in a declaratory judgment action brought after Facility filed the notice and rule to show cause, sought to enjoin Facility from proceeding against him. Garris filed a notice of appeal and a petition for supersedeas after the circuit court denied relief. We declined to stay the proceeding before the Governing Board, but stayed review of any disciplinary action which adversely affected Garris's status as a designated agent pending judicial review of the Governing Board's decision. We ultimately affirmed the circuit court, holding that Garris must first exhaust his administrative remedies. We also addressed Garris's argument, holding that the APA does not require Facility to give him time to correct any deficiencies, but only requires Facility to give him an opportunity to show he had complied with the law. *Garris v. Governing Board of South Carolina Reinsurance Facility*, 319 S.C. 388, 461 S.E.2d 819 (1995) *(Garris I)*.

In his petition to the circuit court following the Governing Board's decision to revoke his status as a designated agent, Garris argued the composition of the board is unconstitutional under Article III, Section 1 of the state constitution.[5] The

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circuit court ruled the argument was barred by the doctrine of res judicata. Garris contends the circuit court erred because res judicata does not bar his argument. We agree.

"Res judicata bars a subsequent suit by the same parties on the same issues. Res judicata is shown if (1) the identities of the parties is the same as a prior litigation; (2) the subject matter is the same as the prior litigation; and (3) there was a prior adjudication of the issue by a court of competent jurisdiction." *Johnson v. Greenwood Mills, Inc.*, 317 S.C. 248, 250, 452 S.E.2d 832, 833 (1994) (citations omitted). "A litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit." *Hilton Head Center of South Carolina, Inc. v. Pub. Service Comm'n of South Carolina*, 294 S.C. 9, 11, 362 S.E.2d 176, 177, (1987); *see also* James F. Flanagan, *South Carolina Civil Procedure* 649-55 (1996) (explaining three basic tests used in res judicata analyses). The primary purposes of the doctrine, commonly known today as claim preclusion, are to bring an end to litigation and prevent a defendant from being forced to defend the same action repeatedly. *See* 50 C.J.S. *Judgment* §§ 697, 702 (1997).

Res judicata or claim preclusion, however, is not always an ironclad bar to a later lawsuit.

> A valid and final personal judgment for the defendant, which rests on the prematurity of the action or on the plaintiff's failure to satisfy a precondition to suit, does not bar another action by the plaintiff instituted after the claim has matured, or after the precondition has been satisfied, unless a second action is precluded by operation of the substantive law.

Restatement (Second) of Judgments § 20(2) (1982). *Accord Allen v. Southern Ry. Co.*, 218 S.C. 291, 62 S.E.2d 507 (1950)

(plaintiffs voluntary dismissal of first action leaves situation as though no suit had ever been brought; subsequent, nearly identical action is not barred by res judicata even though plaintiff appealed first action to Supreme Court, which held that voluntary dismissal was inappropriate and premature); *Gault v. Spoon*, 168 S.C. 160, 167 S.E. 229 (1932) (where first action did not proceed to a conclusion because it was dismissed for failure to execute a proper bond, res judicata did not bar

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subsequent action on same transaction). *See also Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 396, 110 S.Ct. 2447, 2456, 110 L.Ed.2d 359, 376 (1990) (a dismissal without prejudice is not an adjudication upon the merits and does not have res judicata effect); *McEachern v. Black*, 329 S.C. 642, 496 S.E.2d 659 (Ct.App.1998) (same).

Furthermore, dismissal of a prior lawsuit without prejudice, on the ground that a party failed to exhaust administrative remedies, does not mandate dismissal of an identical cause of action in a subsequent suit. *Bowden v. United States*, 106 F.3d 433, 441 (D.C.Cir.1997); Wright, Miller, & Cooper, *Federal Practice and Procedure*, § 4437 (1981). "When applying res judicata to causes of action that were not before the court in the prior action, due process of law and the interest of justice require cautious restraint. Restraint is particularly warranted when the prior action was dismissed on procedural grounds." *Kearns v. General Motors Corp.*, 94 F.3d 1553, 1556 (Fed.Cir.1996) (concluding res judicata did not bar patent infringement claims that were not before court in earlier case dismissed by court).

The doctrine of res judicata does not bar Garris's argument raising Article III, Section 1 because he could not properly have raised it or any other arguments before exhausting his administrative remedies. The fact the Court chose to address one of his arguments in a premature appeal does not mean he now should be penalized for not raising every purely legal challenge in that premature appeal. The purposes of res judicata—bringing an end to litigation and preventing a defendant from being forced to defend the same action repeatedly—are not met by applying the rule in this case. We remanded the matter in *Garris I*, which meant the proceedings against Garris continued and Facility had to continue its involvement in the matter. Accordingly, we reverse the circuit court's ruling on this issue.

3. ARTICLE III, SECTION 1

The circuit court, in the interest of finality, ruled on the merits of Garris's argument and found that the statute establishing the composition of the Governing Board unconstitutionally delegates legislative appointment power to private

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organizations. Facility contends the circuit court erred. We disagree.

The director of the Department of Insurance must appoint six of the insurance industry representatives on the Governing Board from lists of nominees prepared by and drawn from the American Insurance Association (two members), the American Mutual Insurance Alliance (two members), and the National Association of Independent Insurers (two members). *See* S.C.Code Ann. § 38-77-580 (Supp.1997).

We affirm the circuit court's ruling and hold that the delegation in Section 38-77-580 of the Legislature's appointive powers to private organizations violates Article III, Section 1. *See Toussaint v. State Bd. of Medical Examiners*, 285 S.C. 266, 329 S.E.2d 433 (1985) (striking down statute which required Governor to select board members from list of nominees submitted by private

association, where those nominees by statute had to belong to the private association); *Gold v. South Carolina Bd. of Chiropractic Examiners*, 271 S.C. 74, 245 S.E.2d 117 (1978) (same); *see also Hartzell v. State Bd. of Examiners in Psychology*, 274 S.C. 502, 265 S.E.2d 265 (1980) (upholding a statute which required Governor to select board members from a list of nominees submitted by private association, where statute did *not* require those nominees to belong to the private association).

Facility, attempting to distinguish *Toussaint* and *Gold*, argues the *entire* Governing Board is not drawn from the membership of private associations that include only a portion of a particular type of professionals. It is true that Governing Board includes other members, including four consumer representatives, two insurer representatives who are not association members, four producer representatives, and two designated agent representatives. However, that does not change the fact that, in establishing a method to choose six of the insurer representatives, the Legislature unconstitutionally delegated its appointive powers to private organizations.

4. EXERCISE OF PROXIES

Facility's plan of operation requires that a quorum of eleven members be present for a vote, and an action is binding when approved by the majority of those present. The director

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of the Department of Insurance may provide for voting by proxy at meetings. S.C.Code Ann. § 38-77-580 (Supp.1997). Governing Board Chairman John Richards initially counted proxies in determining whether a quorum was present at the Garris hearing. Richards ruled that only those members and proxy holders who had been physically present for the entire three-day hearing could vote on the matter. He later applied that same rule in determining whether a quorum was present.

Nine board members[7] and two proxy holders[8] were eligible to vote under the rule, i.e., they were present in person during the entire hearing. In addition, two other nonvoting board members[9] were present during the entire hearing. Five other board members were present only by proxy.[10]

The circuit court ruled that a quorum was present either in person or by proxy during the entire hearing, the nonvoting members could be counted for purposes of a quorum, and the proxies held by Larry Griner and Nancy Coombs were properly exercised.

Garris contends the circuit court erred because allowing proxy holders Griner and Coombs, who were not board members, to vote violated Garris's due process rights and was inherently unfair. While proxy holders may vote at "routine" meetings, the Court should not allow them to vote in important cases such as this one which have constitutional implications, he argues. Under that reasoning, every member could have given his or her proxy to a file clerk, who could then have decided his case, Garris argues. Furthermore, because Griner and Coombs could not vote, they also could not be counted for purposes of a quorum, Garris asserts. That means there was no quorum of eleven, he contends. We disagree.

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The persons legally responsible for an administrative agency's decision must be informed and unbiased, must hear the case, and must in fact make the decision. *Flav-O-Rich, Inc. v. NLRB*, 531 F.2d 358, 362 (6th Cir.1976); *KFC Nat'l Mgt. Corp. v. NLRB*, 497 F.2d 298, 304 (2d Cir.1974). Due process requires an administrative board, when acting in a quasi-judicial capacity, to consider all the

evidence before deciding a particular question. This does not mean, however, that the administrative board must itself hear the evidence. Staff or assistants may prepare and present the evidence, which the administrative board must consider when rendering its decision. *Pettiford v. South Carolina State Board of Educ.*, 218 S.C. 322, 346, 62 S.E.2d 780, 791 (1950) (approving procedure in which two board members heard testimony and reported it to full board, which decided the matter). It is important, of course, that decision makers attend the hearing if possible. *See McCoy v. Easley Cotton Mills*, 218 S.C. 350, 357, 62 S.E.2d 772, 775 (1950) (stating in workers' compensation case that "[o]rdinarily oral argument is of much aid to any judicial or quasi-judicial body in reaching a proper conclusion, [and] [o]nly circumstances of the most urgent nature are sufficient to excuse a member's absence").

In the absence of any statutory or other controlling provision, the common-law rule that a majority of a whole board is necessary to constitute a quorum applies, and the board may do no valid act in the absence of a quorum. *Prosser v. Seaboard Air Line R. Co.*, 216 S.C. 33, 44, 56 S.E.2d 591, 595 (1949); *Gaskin v. Jones*, 198 S.C. 508, 513, 18 S.E.2d 454, 456 (1942). A member who recuses himself or is disqualified to participate in a matter due to a conflict of interest, bias, or other good cause may not be counted for purposes of a quorum at the meeting where the board acts upon the matter. *Talbot v. James*, 259 S.C. 73, 82, 190 S.E.2d 759, 764 (1972); *King v. New Jersey Racing Comm'n*, 103 N.J. 412, 511 A.2d 615, 618 (N.J.1986).

We affirm the circuit court's ruling and hold that proxy holders Griner and Coombs appropriately participated in the Garris matter. Griner was employed by same insurer who employed Randall Thompson, the board member whose proxy he held. Coombs, a staff attorney at the Department of

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Consumer Affairs, held the proxy of Consumer Advocate Philip Porter. Due process does not require that only Governing Board members hear a designated agent's case. *See Pettiford, supra.*[11]

Garris's reliance upon *Flav-O-Rich, supra*, and *KFC National Management, supra*, is misplaced because those cases are easily distinguished on the facts. In *Flav-O-Rich*, the court held the National Labor Relations Board could not delegate its authority to decide motions to the board's chief counsel. In *KFC National Management*, the court held that allowing one board member and two attorney assistants, who held the general proxies of the other two board members, to decide petitions for review violated the National Labor Relations Act and administrative due process. Drawing upon those cases, Garris presents a hypothetical about all Governing Board members handing over their proxy to a clerk. While his hypothetical might present due process problems, that is not what happened in this case.

We further conclude the circuit court correctly ruled that a quorum was present. The record shows that eleven members, including Griner and Coombs, were present in person for the entire hearing. Enough members were present in person to form a quorum without even considering the five other board members who had given their proxy to fellow board members.

CONCLUSION

We affirm the circuit court's ruling on Issue 1 that the procedure employed by Facility in this case violated Article I, Section 22 of the state constitution. We reverse the circuit court's ruling on Issue 2 that the doctrine of res judicata barred Garris's argument about the composition of the Governing Board. We affirm the circuit

court's ruling on Issue 3 that the statute establishing the composition of the Governing Board violates Article III, Section 1 of the state constitution. We affirm the circuit court's ruling on Issue 4 that proxies

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were properly exercised and a quorum was present at Garris's hearing before the Governing Board.

We remand this case to Facility for further proceedings consistent with this opinion. Our disposition of the issues renders it unnecessary to address Garris's remaining arguments.

FINNEY, C.J., TOAL, MOORE and BURNETT, JJ., concur.

Notes:

1. Facility is an unincorporated, nonprofit entity created by statute in 1974 to provide high-risk drivers with automobile insurance not available through the voluntary market. Facility imposes recoupment charges, based upon a person's driving record, upon all drivers to recover its losses. In addition to high-risk drivers ceded to Facility by voluntary insurers, Facility authorizes designated agents such as Garris to sell policies offered by servicing carriers to high-risk drivers.

Facility will cease to operate in its present form by 2006 under the new system of automobile insurance the Legislature enacted in 1997. *See* S.C.Code Ann. §§ 38-77-510 to -630 (1989 & Supp.1997). Facility on March 1, 1999, will stop accepting new policies written by designated agents. Designated agents may continue to earn commissions on renewals of existing policies until 2002. S.C.Code Ann. §§ 38-77-590 to -595 (Supp.1997).

2. Section 22 states in full:

No person shall be finally bound by a judicial or quasi-judicial decision of an administrative agency affecting private rights except on due notice and an opportunity to be heard; nor shall he be subject to the same person for both prosecution and adjudication; nor shall he be deprived of liberty or property unless by a mode of procedure prescribed by the General Assembly, and he shall have in all such instances the right to judicial review.

3. Kepley's proxy was not exercised because Governing Board Chairman John Richards did not allow any board member to exercise the proxy of another member who was not present for the entire hearing. Richards did allow non-board members (Griner and Nancy Coombs) to exercise their proxies in the vote because they represented their respective board members and were present for the entire hearing.

4. The United States Supreme Court in *Withrow v. Larkin* and other courts have noted that the federal Administrative Procedures Act prohibits agency staff from serving in dual roles, but specifically exempts agency board members from that prohibition. *E.g., Blinder, Robinson and Co. v. SEC*, 837 F.2d 1099, 1104-07 (D.C.Cir.1988) (citing 5 U.S.C.A. § 554(d) (1996)). Article I, Section 22, of our constitution contains no such distinction between agency staff and board members.

5. *See also Pope v. Mississippi Real Estate Comm'n*, 695 F.Supp. 253, 285 (N.D.Miss.1988) (finding no due process violation where staff investigated a real estate agent, a commissioner from outside the agent's district decided whether the case should go forward, and the commissioners who heard and decided the case did not participate in the investigation), *aff'd*, 872 F.2d 127 (5th Cir.1989); *Ridgewood*

Properties, Inc. v. Dep't of Community Affairs, 562 So.2d 322 (Fla.1990) (finding violation of state and federal due process where department head testified in an administrative hearing and later reviewed the hearing officer's order); *Manka v. Tipton*, 805 P.2d 1203, 1206 (Colo. Ct.App.1991) (upholding decision in tax case decided by deputy director in administrative hearing where taxpayer presented no evidence that director investigated the case); 73A C.J.S. *Public Administrative Law and Procedure* § 138(c) (1983); 2 *Administrative Law* § 313 (1994); West's Digests, *Administrative Law*, Key No 445

6. Article III, Section 1, states:

The legislative power of this state shall be vested in two distinct branches, the one to be styled the "Senate" and the other the "House of Representatives," and both together the "General Assembly of South Carolina."

7. Steve Dennis, Jim Thompson, Robert Herlong, Clark Hobbie, Phillip Love, Gerry Huckaby, Chairman John Richards, David Rowell, and W.R. Braddy.

8. Larry Griner, who exercised the proxy of board member Randall Thompson; and Nancy Coombs, who exercised the proxy of board member Philip Porter.

9. Thomas Reichard and Frank Lee.

10. Thomas Kepley, C.M. Dinwiddie, James Lingle, Arthur Ivey, and Bob Taylor.

11. Griner's participation as a proxy holder was appropriate. His participation as an observer at the three committee meetings and as an adjudicator at the hearing was not appropriate, as explained in Issue 1. Neither Coombs nor Porter attended the committee meetings.

EXHIBIT
D

The South Carolina Court of Appeals

Wayne's Automotive Center, Inc., Appellant,

v.

South Carolina Department of Public Safety,
Respondent.

Appellate Case No. 2016-002460

ORDER

Appellant has served and filed a notice of appeal from two orders of the Department of Public Safety, which suspend and remove Appellant from the South Carolina Highway Patrol Rotation List. Appellant has also filed a petition for supersedeas, asking this court to stay the suspension. Because the administrative law court has not issued a final decision in this matter, this court lacks jurisdiction to consider the appeal. *See* S.C. Code Ann. § 1-23-600 (Supp. 2016) (setting forth the jurisdiction of the administrative law court); S.C. Code Ann. § 1-23-610 (Supp. 2016) ("For judicial review of a final decision of an administrative law judge, a notice of appeal by an aggrieved party must be served and filed with the court of appeals as provided in the South Carolina Appellate Court Rules."). Accordingly, this court declines to consider the petition for supersedeas, and this appeal is dismissed. The remittitur will be sent as provided in Rule 221, SCACR.

FOR THE COURT

Columbia, South Carolina

FILED
December 12, 2016

cc:
Raymon E. Lark, Jr., Esquire
Warren V. Ganjehsani, Esquire
Marcus Keith Gore, Esquire

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Wayne's Automotive Center, Inc., Petitioner, v. South Carolina Department of Public Safety, Respondent.	)	Docket No. 16-ALJ-30-0410-CC **RESPONSES TO PETITIONER'S REQUESTS FOR ADMISSION**

TO: RAYMON E. LARK, JR., COUNSEL FOR PETITIONER

Pursuant to Rule 36, SCRCP, the Respondent responds to the Petitioner's Requests for Admission as follows:

1. The accident giving rise to this matter was a Class C "*special operations*" tow, not a "*standard tow*", both of which terms are defined in Reg. 38-600 (F) (2) (a) (1) and (2).

RESPONSE #1:

Denied.

2. Petitioner was called upon by Respondent to respond and provide towing and recovery services at the scene of an accident on Interstate 20 near the South Carolina-Georgia border on February 9, 2016, and Petitioner did so.

RESPONSE #2:

The Respondent admits that on February 9, 2016, the Petitioner received a routine call from SCHP requesting a Class "C" wrecker to tow a tractor-trailer owned by J.H.O.C. d/b/a Premier Transportation that had overturned on Interstate-20 near the South Carolina-Georgia line, and the Petitioner did respond to that call.

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3. Premier Transportation was the carrier/owner whose tractor and trailer with cargo were overturned in that accident.

RESPONSE #3:

It is admitted that J.H.O.C. d/b/a Premier Transportation was the carrier/owner of the tractor and trailer.

4. Petitioner and Premier Transportation fully resolved payment and related issues between them prior to issuance by Respondent of its proposed disciplinary action notice to Petitioner.

RESPONSE #4:

The Respondent lacks sufficient knowledge to specifically admit or deny this request. Further answering, by check dated March 4, 2016, J.H.O.C. d/b/a Premier Transportation paid a total of $48,633.19 to Wayne's, which apparently accepted this amount as payment in full for the services provided.

5. Section §V (D) (re Suspension for Cause) of SCDPS Wrecker Disciplinary Policy 200.19 provides a maximum "not to exceed ninety calendar days"; however, Respondent imposed suspension for Petitioner of 120 days.

RESPONSE #5:

The Respondent admits that Section V.D of the SCDPS Wrecker Disciplinary Policy provides as follows: "suspension for cause is imposed for an infraction, violation, or offense, or for cause other than noncompliance with safety or qualifications criteria and shall not exceed ninety calendar days." It is also admitted that the Notice of Disciplinary Action Decision dated September 26, 2016, provides for suspension and removal from the SCHP Wrecker Rotation List for a period of 120 days. However, that Notice of Disciplinary Action Decision also provides that "[i]n reaching this decision, the Department took into account that Wayne's was disciplined previously for its noncompliance with the Regulation in 2015." Please note that Section V.E of the SCDPS Wrecker Disciplinary Policy allows for the removal of a wrecker service from the rotation list "when a wrecker service has exhibited a continuing pattern of infractions, violations, offenses or misconduct when responding to department calls for wrecker services," and Section V.E does not include any maximum duration for a removal from the rotation list.

6. The 2016 Wrecker Rotation Fee Schedule expressly states that "no fee will be set" for tows that involve special operations.

RESPONSE #6:

It is admitted that the 2016 Wrecker Rotation Fee Schedule states, in part, that "no fee with be set" for Class C "special operations." The hourly Class "C" rate set by the Fee Schedule is the maximum total hourly amount that may be charged for a wrecker service's performance of the tow/recovery itself. The 2016 Wrecker Rotation Fee Schedule further states as follows: "Although no Special Operations fee is set for Class C tows, a wrecker service may recover the actual cost of rented/subcontracted equipment or labor necessary to accomplish the job. Proof of these actual costs in the form of an itemized invoice or receipt from the third party providing such equipment or labor must accompany the tow bill."

7. Respondent relied upon a complaint by Robert Watson in issuing its notice of proposed disciplinary action concerning Petitioner.

RESPONSE #7:

Denied as stated. The Respondent relied upon its investigation in issuing the Notice of Proposed Disciplinary Action.

8. Robert Watson had no underlying property interests in that accident.

RESPONSE #8:

The Respondent lacks sufficient knowledge to specifically admit or deny this request.

9. Respondent had no underlying property interests in that accident.

RESPONSE #9:

Admitted.

DAVIDSON & LINDEMANN, P.A.

BY: _____

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Rec'd 07/19/16

REG. (16175)

S. C. DEPARTMENT OF PUBLIC SAFETY
Communications Office

P.O. Box 1993 • Blythewood, S.C. 29016
Tel: (803) 896-7759

07/19/2016

MR. RAY LARK
AUSTIN & ROGERS, P.A.
508 HAMPTON STREET, STE. 300
P. O. BOX 11716
COLULMBIA, SC 29201-

Note: Per M. Gore - no info from Transp Meeting on 06/21/16

Request Number : 1607053

RE: PROPOSED DISCIPLINATRY ACTION TO WALTER JEFFREY CORBETT
WAYNES AUTOMOTIVE CENTER, INC.
WRECKER ROTATION FEE SCHEDULE, ETC.

REG. 07/20/16

DEAR MR. LARK

Please find enclosed the information you have requested. The Department believes that this constitutes full compliance with your request under the Freedom of Information Act. Should you have any questions, feel free to call us at 803-896-7759.

Thank you,

Ada Schmidt
FOI Coordinator
SC Department Of Public Safety
Communications Office
foia@scdps.gov

PETITIONER'S EXHIBIT #6 Hughes 2/11/17 20th

South Carolina Department of Public Safety
S.C. Highway Patrol

Memorandum

To: Captain C. B. Hughes
Troop Ten Commander

From: Captain A. K. Grice AKG
Troop Seven Commander

Date: March 10, 2016

Subject: Wrecker Complaint-Wayne's Automotive, Aiken County

Attached you will find documentation of a wrecker complaint against Wayne's Automotive from Mr. Bob Watson of Recovery Resolution Specialists. The complaint is pertaining to a collision that occurred on February 9, 2016 in Aiken County. The complaint alleged the billing is excessive and not within the standards set by SCDPS. Wayne's towing service is currently on the SCHP, Class C Wrecker Rotation list for Post C, Aiken. Mr. Watson made several attempts to resolve the issue with the towing company, however, he was unsuccessful. Mr. Watson spoke with Lieutenant N.W. King by phone concerning the matter and forwarded the official complaint by email on February 19, 2016.

After reviewing the documents provided by Lt. King from his investigation into this matter, it is my belief that Wayne's Automotive billing is excessive according to SCDPS standards. Wayne's Auto blatantly disregarded the rules and regulations set by SCDPS as well as South Carolina Code of Laws 56-5-5635 by failing to release the cargo own by the trucking company. It is my recommendation that Wayne's Automotive be removed from the SCHP Wrecker Rotation list for failing to follow the rules and regulations as set by SCDPS.

To: Captain A. K. Grice

From: Lieutenant N. W. King

Date: March 4, 2016

Re: Wrecker Complaint – Wayne's Automotive and Towing Center

On February 16, 2016, I received an email from you to make contact with a Mr. Bob Watson. Mr. Watson represents the insurance company who insures the trucking company Premier Transportation. Premier Transportation vehicle was involved in an accident on February 9, 2016 at approximately 0105 hours on I-20 in Aiken County. This collision occurred on top of the South Carolina/Georgia State Line Bridge. After speaking with Mr. Watson, he had concerns about fees charged by Wayne's Automotive and Wayne's refusal to release cargo. Mr. Watson sent me a copy of the bill which was a total of $69,017.19. After reviewing the bill, I did discover numerous unreasonable fees. Some of the fees listed on the invoice were charges of $12,295 for equipment Wayne's Automotive said he used other than wreckers. Also listed on the invoice that concerned me were 3 technicians being paid $175.00 an hour and 3 more technicians being paid $150.00 an hour, all for a total of $17, 450. On February 19, 2016 I made a phone call to Waynes Automotive to hopefully mediate the fees with the owner, Jeff Corbett, and Mr. Watson. I also advise Mr. Corbett to release the cargo to Premier Transportation. During my conversation with Mr. Corbett, I explained how I felt the fees seemed unreasonable and should be looked at more closely by him. I advised Mr. Corbett the fees of $12, 295 for the equipment he used could not be charged because he owned the equipment. This is explained in the South Carolina Highway Patrol 2016 Wrecker Rotation Fee Schedule stating in the Special Operations section "Although no special Operation fee is set for Class C tows, a wrecker service may recover the actual cost of rented/subcontracted equipment or labor necessary to accomplish the job." Mr. Corbett then explained to me that he has 3 companies, 1 in which his wife Sherry Corbett owns. Mr. Corbett stated that all 3 companies were on scene and working during this collision. Mr. Corbett stated he rented the listed equipment on his invoice for a total of $12, 295 from his wife company. I advised Mr. Corbett that a separate bill needed to be done by his wife's company showing her billing him for the equipment. I then advised Mr. Corbett after carefully reviewing his invoice of his fees such as the labor charges of $175.00 an hour, to resubmit his new bill along with the bill from his wife's company for the rental equipment to Mr. Bob Watson. Mr. Corbett agreed, along with agreeing to release the cargo to Premier Transportation. I contacted Mr. Watson and advised him that Mr. Corbett would be releasing the cargo and Mr. Corbett is reviewing the bill to make corrections to the fees along with submitting a separate bill from his wife's company for renting the equipment.

On February 19, 2016, I received a phone call from Mr. Watson. Mr. Watson stated that he was having issues with Mr. Corbett releasing the cargo. I immediately called Mr. Corbett to ask what the issue was with releasing the cargo. Mr. Corbett stated that he was not releasing the cargo nor was he resubmitting a bill. I explained to Mr. Corbett that he had to release the cargo and he stated he would not. Mr. Corbett stated he spoke to several people who told him that his charges on his invoice were fair and also that he did not have to release the cargo. I explained to Mr. Corbett that the unreasonable fees that he listed on the invoice and not releasing the cargo like he is required to could cause him to be reprimanded

suspended or even removed off rotation. Mr. Corbett stated that he guessed he will just have to take the risk of being kicked off rotation because he was not releasing the cargo or lowering his prices. I ended my conversation with Mr. Corbett and called Mr. Watson to advise him of the situation. On February 19, 2016, Mr. Watson emailed me an official complaint on Waynes Automotive Center INC.

As of February 29, 2016, the insurance company that Mr. Watson represents is in civil court with Mr. Corbett for the release of cargo and fees. Mr. Corbett has also not submitted a separate bill from his wife's company for the equipment that he supposedly rented from her for the cleanup of this accident.

I found that Waynes Automotive Center INC violated South Carolina Wrecker Regulations and South Carolina Code of Law. The findings are supported by the followings facts:

- I spoke with Cpl Deering who was the investigating Trooper for this collision and L/CPL Rucker who also assisted with the collision. Both Troopers stated that Waynes Automotive took too much unnecessary time to clean and clear this collision. Both Troopers suggested that it took Waynes Automotive 21 hours, the amount he billed for, because it seemed he did not know what he was doing and it should not have taken that long to clean and clear that collision.

- Mr. Corbett charge $12,295 for equipment (see attached invoice) that he never submitted a separate bill for as I instructed him that he is required to per the South Carolina Highway Patrol 2016 Wrecker Rotation Fee Schedule. A representative from his business signed this fee schedule November 25, 2015. In the fee schedule it states **"Although no Special Operation fee is set for Class C tows, a wrecker service may recover the actual cost of rented/subcontracted equipment or labor necessary to accomplish the job."** This South Carolina Highway Patrol 2016 Wrecker Rotation Fee Schedule acknowledges that Waynes Automotive INC agreed to this and all other rules when becoming a wrecker on the South Carolina Highway Patrol rotation. (see attached fee schedule). As of February 29, 2016, Mr. Corbett has still not submitted a bill from his wife showing he was billed for the equipment he is charging Premier Transportation.

- Mr. Corbett's very unreasonable fees for many things listed on his invoice such as:

1. Three recovery technicians were paid $175.00 an hour for a grand total of $10,850. A reasonable rate should have been $50.00 for grand total of $3,100.

2. Three recovery technicians were paid $150.00 an hour for a grand total of $6,600. A reasonable rate should have been $50.00 for grand total of $2,200

3. One recovery technician was paid $85.00 an hour. A reasonable rate should have been $35.00 an hour.

4. One labor worker was paid $90 an hour for a grand total of $810.00 and six other labor workers were paid $50.00 hour for a grand total of $1,475. A reasonable rate should have been $25.00 an hour for a grand total of $962.50 for all.

5. Three workers were paid an hour of work to transfer and repack for a total of $1000.00. A reasonable rate should have been $25.00 an hour for a grand total of $75.00.

6. Charging for duplicate services. ($750.00 for repacking and reloading)

7. Mr. Corbett failed to release the cargo as I instructed him to on two different occasions. This is in direct violation of South Carolina Law 56-5-5635 section F which clearly states in it **"The proprietor, owner, or operator of the towing company, storage facility, garage or repair shop must release any personal property that does not belong to the owner of the vehicle to the owner of the personal property.**

In conclusion, Mr. Corbett failed to do the things that I asked him to do which were required by law and South Carolina Wrecker Regulations, **it my recommendation that Waynes Automotive Center INC be permanently removed from South Carolina wrecker rotation list.**

King, Nicklous W.

[redacted]om: Bob Watson [towinsurance@gmail.com]
[redacted]nt: Friday, February 19, 2016 11:33 AM
To: King, Nicklous W.; Karen Coppolino; Lucas Sentry; Haz Mat; Hughes, Clifton B
Subject: Official complaint on Waynes towing Claim 61a169404 Premier Transporation

Officer King, I have called the tow company for 2 days and the owner (Jeff is the only one that is to talk with me) has not called me back.
I cannot get an answer on the cargo trying to get it pickup today.

After reviewing the tow bill I have several problems.

1. The tractor trailer recovery 21 hours. After the units where up righted it appears the HD recovery trucks just sat. Why where the units not towed to the yard. Waynes won't answer the question but states 21 hours.
2. I was told a lot of the equipment was sub contracted so they can charge extra money. Need a list of sub contracted equipment.
3. Air bags for $8,000.00. The tow company did not know how to use air bags, straps, angle iron to protect the corners which tore the trailer into 3 pieces. I have done over 150 air bag recoveries and was a trainer in CA and I have NEVER destroyed a trailer. I sent to other tow companies and they all agree with my assessment of the recovery. The tow company destroyed the trailer and wasted a lot of time.
4. Labor rates $150.00 per hour is about double the going rate. Then they lower the rate to $[redacted]0.00 which is about correct.
[redacted]Transfer cargo $750.00. They are already charging labor. What the $[redacted]0.00 for? Then on page 2 there is another $750.00 charge.
6. Need a copy of the sublet bill for $1,000.00 additional labor 7. Tract hoe can be rented for about $350.00 a day.
8. Why did the tow co bring all the signs and cones out. Doesn't DOT or the state police cover this?
9. Cones $50.00 each. They cost between $13.00 and $19.00.
10. OSHA Certifies radio equipment. $1795.00 11. Called yesterday and today to get the cargo and I have to talk with Jeff only. No return call.

I have transportation spill solution working with me on the haz mat portion of the bill with I have concerns with. .

--
Robert Watson
President, Recovery Resolution Specialists

704-807-1733 www.recoveryresolutionspecialists.com

This email is confidential. If you are not the intended recipient, you must not disclose or use the information contained in it. If you have received this email in error, please reply immediately and inform the sender that you have received it in error. Recovery Resolution Specialists disclaims any and all liability for unauthorized used of this email or the information contained herein. Recovery Resolution Specialists recommends you scan all attachments with antivirus software, as we accept no responsibility for damages caused by [redacted]ses or malware that may be transmitted with this email.

Wayne's Automotive and Towing Center

SCIM
Spill Containment Incident Management
1997 Richland Avenue East
Aiken, SC 29801

Invoice

Date	Invoice #
2/10/2016	504462

Bill To
J. H. O. C., INC. Premier Transportation 323 CASH MEMORIAL BOULEVARD FOREST PARK GA 30297 282577

P.O. No.	Terms	Project
	Due Upon Receipt	

Description	Qty	Rate	Amount
Repacking Fee and Reloading from Loading Dock onto Trailer 2nd Load	1	750.00	750.00
Backhoe 420D and Transport and Heavy Operator	11.5	350.00	4,025.00
id Steer Track Loader and Transport	1	600.00	600.00
k Deck Blower used for cleaning highway on bridge	1	275.00	275.00
estocking and Reload Cargo	1	500.00	500.00
OSHA Certified Incident Communication Equipment	1	1,795.00	1,795.00
Emergency Digital Signage I-20 W Message Board exit 6 Detour	20	75.00	1,500.00
Traffic with Cones	20	75.00	1,500.00
Emergency Digital Signage I-20 E Digital Arrow Board	8	75.00	600.00
Light Tower	20	50.00	1,000.00
Traffic Control High Intensity Sign 36x36 used a total of 4 on both East and West lanes			
26 In. Traffic Cones total of 48	20	50.00	1,000.00
Pallats for Restocking	3	22.95	68.85
PIG MAT240	25	7.50	187.50
Containment Booms used for containment preventing release into Savannah River below site	1	85.00	85.00
Containment Liner	1	175.00	175.00
Storage Per Unit as of 02/15/2016	1	210.84	210.84
Storage Per Unit as of 02/15/2016	6	50.00	300.00
	6	50.00	300.00

5% Interest Accrual for non payment in 5 days.

Total	$69,017.19
Payments/Credits	$0.00
Balance Due	$69,017.19

Phone #	E-mail
803-226-0025	sherry@waynesautomotivecenter.com

000871

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Wayne's Automotive and Towing Center

SCIM
Spill Containment Incident Management
1997 Richland Avenue East
Aiken, SC 29801

Invoice

Date	Invoice #
2/10/2016	504462

Bill To
J. H. O. C., INC. Premier Transportation 323 CASH MEMORIAL BOULEVARD FOREST PARK GA 30297 282577

P.O. No.	Terms	Project
	Due Upon Receipt	

Description	Qty	Rate	Amount
60 Ton Rotator HD4 used for upright winching both tractor and trailer	21	436.00	9,156.00
Class C Heavy Duty Truck HD5 used for upright winching both tractor and trailer	21	436.00	9,156.00
Class C Heavy Duty Tractor with Trailer used for Transfering Cargo and storing HD3/RECOVERY TRAILER	13	436.00	5,668.00
Recovery Supervisor JC	21	175.00	3,675.00
Recovery Technician BH	21	175.00	3,675.00
Recovery Technician KJ	21	150.00	3,150.00
Recovery Technician JH	13	150.00	1,950.00
Recovery Technician BR	8	85.00	680.00
Recovery Technician WB	10	150.00	1,500.00
Response Unit used for transporting supplies, snatch blocks, oil dry, absorbents, booms, back deck blower, brooms, shovels, etc.	20	175.00	3,500.00
Air Cushion Recovery	2	4,000.00	8,000.00
Transfer Cargo from scene to loading dock Containment Unit (this includes reloading an offsite facility)	1	750.00	750.00
Labor Hours for transferring from the scene and repackaging WB	9	90.00	810.00
Labor Hours for transferring from the scene and repackaging JH	7	50.00	350.00
Labor Hours for transferring from the scene and repackaging WRH	1.5	50.00	75.00
Labor Hours for transferring from the scene and repackaging JS	7	50.00	350.00
Labor Hours for transferring from the scene and repackaging PW	3.5	50.00	175.00
Labor Hours for transferring from the scene and repackaging MR	7	50.00	350.00
Labor Hours for transferring from the scene and repackaging KS	3.5	50.00	175.00
Labor Sublet from Verns (3 Guys used for transferring and repacking)	1	1,000.00	1,000.00

5% Interest Accrual for non payment in 5 days.

Total	
Payments/Credits	
Balance Due	

Phone #
803-226-0025

E-mail
sherry@waynesautomotivecenter.com

000872

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ORIGINAL

SOUTH CAROLINA DPS/OHS & DMV USE ONLY

Page # 1 Of 1

SOUTH CAROLINA TRAFFIC COLLISION REPORT FORM

TR-310 (Rev. 11/2011)

Of Units: 01

Amended - Attach Copy of Original Report: Corrected

Notified: 0111

Arrived: 0126

Date	Time of Collision	County	Collision Location (Rt. # / Name)	Miles	Dir.	In (Near) City or Town of:
02-09-2016	0105	02	1-Interstate 2-US Primary 3-SC Primary 4-Secondary 5-County 6-PP; 0-Main Line 2-Alternate 5-Spur 6-Connection 7-Business: I 20 / INTERSTATE 20	.24	N E S (W)	NORTH AUGUSTA

Lane # / Dir.	Distance Offset	Direction	Base Intersection (Rt. # / Name)	GPS COORDINATES 00 00' 00.00"
# NL; Of; N E S (W)	Miles (Feet) 1.00	N E S (W) (3) SC Primary; 1-Interstate 2-US Primary 4-Secondary 5-County 6-Other	From 230 / MARTINTOWN RD; 0-Main Line 2-Alternate 5-Spur 6-Connection 7-Business 9-Other	DEGREES MINUTES SECONDS: Latitude 33 31 55.70; Longitude -82 00 40.61
R.R. Id.	From: N E S W; Ramp Only: 1-Entrance 2-Exit	To: N E S W; 1-Interstate 2-US Primary 3-SC Primary 4-Secondary 5-County (6)-Other	Toward: Second Intersection (Rt. # / Name) / GA STATE LINE; 0-Main Line 2-Alternate 5-Spur 6-Connection 7-Business (9)-Other	

Driver/Pedestrian's Full Name

M-041911

ROGERS ROBERT

Unit # 01 | Sex M | Race B | #Occ 1 | Birth Date

Street

City, State, & Zip: PINOLA MS 39149

State: MS | Driver's License #: A | Class | Insurance Company: SENTRY SELECT

Year: 2012 | Body: TR | Vehicle Make: FRHT | VIN #: 1FUJGLDR6CLAY4852

State: IN | Year: 2016 | License Plate #: 2049550 | Owner's D.L. #: NONE

Home Telephone ( ) | Owner's Full Name: PREMIER TRANSPORTATI

Bus. Telephone: (877) 369 4600 | Street: 323 CASH MEMORIAL BLVD

Contributed To Collision: (Yes) No | City, State, & Zip: FOREST PARK GA 30297

Estimated Speed: 70 | Speed Limit: 70 | C.D.L. Req: (Yes) No | T/B S Req: (Yes) No | Alc/Drg Info (see back): Yes (No)

Summons #: H474850 | Code: 21 | Summons # | Code | Towed By: (Yes) No WAYNES

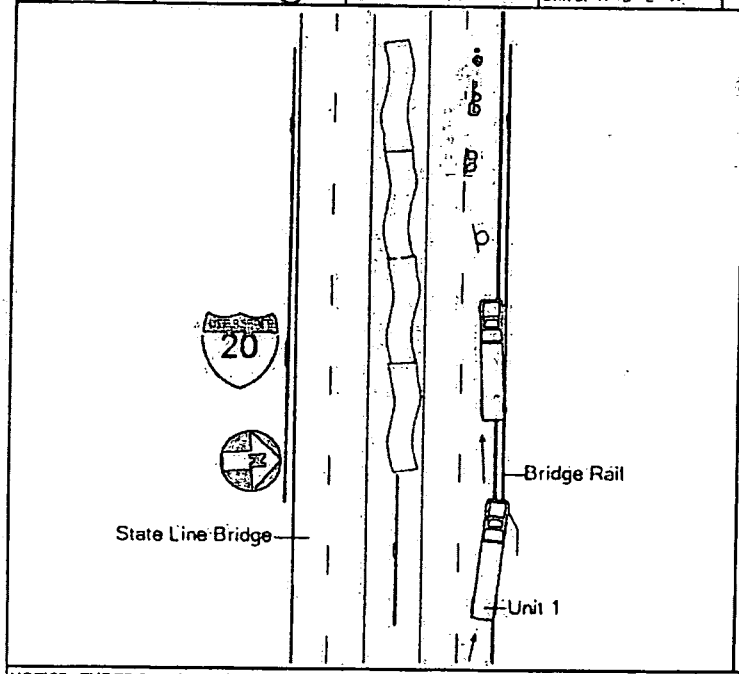
Driver/Pedestrian's Full Name

Unit # | Sex | Race | Street | #Occ | Birth Date | City, State, & Zip | State | Driver's License # | Class | Insurance Company | Year | Body | Vehicle Make | VIN # | State | Year | License Plate # | Owner's D.L. # | Home Telephone ( ) | Owner's Full Name | Bus. Telephone ( ) | Street | Contributed To Collision: Yes No | City, State, & Zip | Estimated Speed | Speed Limit | C.D.L. Req: Yes No | T/B S Req: Yes No | Alc/Drg info (see back): Yes No | Summons # | Code | Summons # | Code | Towed By | Yes No

Driver/Pedestrian's Full Name

Unit # | Sex | Race | Street | #Occ | Birth Date | City, State, & Zip | State | Driver's License # | Class | Insurance Company | Year | Body | Vehicle Make | VIN # | State | Year | License Plate # | Owner's D.L. # | Home Telephone ( ) | Owner's Full Name | Bus. Telephone ( ) | Street | Contributed To Collision: Yes No | City, State, & Zip | Estimated Speed | Speed Limit | C.D.L. Req: Yes No | T/B S Req: Yes No | Alc/Drg info (see back): Yes No | Summons # | Code | Summons # | Code | Towed By | Yes No

Dir. of Travel: Unit 1: N S E (W) | Unit 2: N S E W | Unit 3: N S E W



Unit 1 Dam.	Unit 2 Dam.	Unit 3 Dam.	Prop.Dam. 1	Prop. Dam. 2
$ 90000	$	$	GUARDRAIL/B $ 15000	$

Property Owner/Witness:	Property Owner/Witness:
SCDOT	CHRIS SMITH
Address: 1931 UNIVERSITY PKWY. AIKEN	Address: 412 SOUTH COPPELL POPPELL
State: SC Zip: 29801 Phone: 8036417665	State: TX Zip: 75019 Phone: 2142405836

Photo: Y (N)

Describe What Happened (Refer to Units by Number):

UNIT 1 WAS TRAVELING WEST ON I-20. UNIT 1, TRAVELING TOO FAST FOR CONDITIONS, RAN OFF THE RIGHT SIDE OF THE ROADWAY AND STRUCK THE CONCRETE BRIDGE AND GUARDRAIL FACE. UNIT 1 THEN OVERTURNED ON TOP OF THE I-20 STATE LINE BRIDGE. THE WITNESS CALLED 911 PRIOR TO THE COLLISION STATING THAT THE TRACTOR TRAILER WAS FAILING TO MAINTAIN THE LANE OF TRAVEL AT THE 8 MILE MARKER.

NOTICE - THE TR-310 IS FOR STATISTICAL REPORTING PURPOSES ONLY AND IS A REFLECTION OF THE OFFICER'S BEST KNOWLEDGE, OPINION AND BELIEF COVERING THE COLLISION BUT NO WARRANT IS MADE AS TO THE FACTUAL ACCURACY THEREOF.

Investigating Officer's Name	Rank	Badge #	Jurisdiction Code	Review Date	Reviewer's Name	Rank	Internal Agency Code
DEERING - D A	CPL	A 3 3	H P 0 7	02-18-2016	J R LaChance	F/Sgt	16CH019538

Unit:	Date of Birth	Sex:	Race	INJ:	Seat:	R/SD	A.B.D.	Eject	LAI:	Tran:	Name	Street Address			Zip Code
01	08-13-1993	M	B	2	01	13	7 3	1	1	1 1	ROGERS ROBERT	159 NEW HYMN RD	PINOLA	MS	39149

Race: A - Asian/Pacific Islander; B - African American; H - Hispanic; I - Alaskan Native or American Indian; W - Caucasian; O - Other; U - Unk.

a) Injury Status: 0-Not Injured; 1-Possible Injury; 2-Non-Incapacitating; 3-Incapacitating; 4-Fatal

Seating Loc.: 01 02 03 / 04 05 06 / 07 08 09; 20-Pedestrian; 30-Trailing Unit; 40-Bus or Van (4th row or higher); 50-Other Enclosed Area (nontrailing); 51-Other Unenclosed Area (nontrailing); 60-Sleeper of Cab; 70-Riding on Unit Exterior; 80-Lap; 99-Unk./NA

Restraint/Safety Device: 00-None Used; 11-Shoulder belt; 12-Lap Belt Only; 13-Shoulder & Lap Belt; 21-Child Safety Seat; 88-Other; 99-Unk.

Air Bag Deployment / Switch: a) 1-Deployed Front; 2-Deployed Side; 3-Deployed Both; 4-Not Deployed; 7-Not Applicable; 9-Deployment Unk. b) 1-Switch in On Position; 2-Switch in Off Position; 3-No Switch; 9-Unknown

Ejection: 1-Not Ejected; 2-Part. Ejected; 3-Tot. Ejected; 7-Not App.; 9-Unk.

b) 2 or 3 Wheel Motorized Vehicle: Head Injury 1-Yes 2-No

Location After Impact: 1-Not Trapped; 2-Extricated (Mechanical Means); 3-Freed (non-mech.); 4-Not Applicable; 9-Unknown

e) Transported to Medical Facility: 1-Yes 2-No 3-Unknown

b) By: 1-EMS 2-Police 8-Other 9-Unk.

Pedestrian, Motor/Pedalcycle Only: 31-Helmet; 41-Protective Pads; 51-Reflective Clothing; 61-Lighting

Sequence of Events

Event 1	Event 2	Event 3	Event 4	Most Harmful	1st Harmful
10	51	43	08	08	51

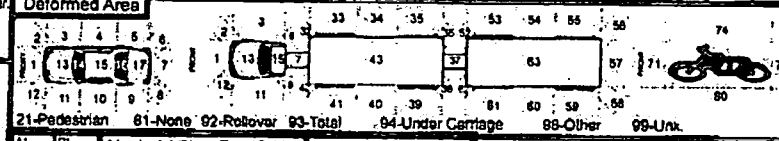
Non-Collision: 01-Cargo/Equip Loss or Shift; 02-Cross Median/Center; 03-Downhill Runaway; 04-Equipment Failure; 05-Fire/Explosion; 06-Immersion; 07-Jackknife; 08-Overturn/Rollover; 09-Ran off Road Left; 10-Ran off Road Right; 11-Separation of Units; 12-Spill (Two-Wheeled Veh.); 16-Other Non-collision; 19-Unk. Non-collision

Collison: Not Fixed: 20-Animal (Deer Only); 21-Animal (All Other); 22-Motor Veh. (In Transport); 23-Motor Veh. (Stopped); 24-Motor Veh. (Other Roadway); 25-Motor Veh. (Parked); 26-Pedalcycle; 27-Pedestrian; 28-Railway Veh.; 29-Work Zone Maint. Equip.; 39-Other Movable Object; 39-Unk. Movable Object

Collison: Fixed Object: 40-Bridge Overhead Structure; 41-Bridge Parapet End; 42-Bridge Pier or Abutment; 43-Bridge Rail; 44-Culvert; 45-Curb; 46-Ditch; 47-Embankment; 48-Equipment; 49-Fence; 50-Guardrail End; 51-Guardrail Face; 52-Highway Traffic Sign Post; 53-Impact Attenuator/Crash Cushion; 54-Light/Luminaire Support; 55-Mail Box; 56-Median Barrier; 57-Overhead Sign Support; 58-Other (Post, Pole, Support, Etc.); 59-Other (Wall, Building, Tunnel, Etc.); 60-Tree; 61-Utility Pole; 62-Work Zone Maint. Equipment; 68-Other; 69-Unk.

Manner of Collision (Struck Veh.): 00-Not Coll. w/ Motor Veh.; 10-Rear End; 20-Head On; 30-Rear-to-Rear; 41-Angle; 42-Angle; 43-Angle; 50-Sideswipe Same Dir.; 60-Sideswipe Opposite Dir.; 70-Backed Into; 99-Unknown

1st / Most Deformed Area: 1st Deformed 12 | Most Deformed 93



21-Pedestrian; 61-None; 92-Rollover; 93-Total; 94-Under Carriage; 88-Other; 99-Unk.

Vehicle Type: 01-Automobile; 12-Pickup Truck; 13-Truck Tractor; 14-Other Truck; 15-Full Size Van; 18-Mini Van; 17-Sport Utility; 25-Motorcycle; 26-Other Motorbike; 27-Pedalcycle; 38-Animal Drawn Veh.; 39-Animal (Ridden); 41-Pedestrian; 51-Train; 61-School Bus; 62-Passenger Bus; 98-Other; 99-Unk. (Hit and Run Only)

Alcohol / Drug Test Given: 1-Given - Known Results; 2-Given - Unusable; 3-Given - Pending; 4-None; 5-Refused

Special Use Only

Test Type: 1-Breath (Alc Only); 2-Blood; 3-Urine; 4-Serum; 8-Other

Drug Results: 1-Amphetamines; 2-Cocaine; 3-Marijuana; 4-Opiates; 5-PCP; 6-Other

Underride/Override: 1-Under-Compartment Intrusion; 2-Under-No Intrusion; 3-Under-Unknown; 4-Over-MV in transport; 5-Over-Other Vehicle; 6-None; 9-Unk.

Extent of Deformity: 0-None/Minor; 1-Functional Damage; 2-Disabling Damage; 4-Severe/Totaled; 5-Not Applicable; 9-Unk.

Vehicle Use Code: 01-Personal; 02-Driver Training; 03-Construction/Maint.; 04-Ambulance; 05-Military; 06-Transport Passengers; 07-Transport Property; 08-Farm Use; 09-Wrecker or Tow; 10-Police; 11-Government; 12-Fire Fighting; 13-Logging; 18-Other; 41-Pedestrian

Vehicle Attachment: 1-None; 2-Mobile Home; 3-Semi-Trailer; 4-Utility Trailer; 5-Farm Trailer; 6-Trailer w/Boat; 7-Camper Trailer; 8-Towed Motor Vehicle; 9-Petroleum Tanker; A-Lowboy Trailer; B-Autocarrier Trailer; C-Other Tanker; D-Flat Bed; E-Twin Trailers; F-Other

Alc Test Results: A1- ; A2- ; A3-

Trafficway: 1-Two-way, Not Divided; 2-Two-way, Divided, Unprotected Median; 3-Two-way, Divided, Barrier; 4-One-Way; 8-Other

A: 1-Gore; 2-Island; 3-Median; 4-Roadside; 5-Roadway; 6-Shoulder; 7-Sidewalk; 8-Outside Trafficway; 9-Unk. **B: X-walk:** 1-Y 2-N 9-U

1st Harmful Event Loc.: 6 2

Action Prior to Impact: (Vehicle) 01-Backing; 02-Changing lanes; 03-Entering traffic lane; 04-Leaving traffic lane; 05-Making U-turn; 06-Movements Essentially Straight Ahead; 07-Overtaking/passing; 08-Parked; 09-Slowing or Stopping in traffic; 10-Turning left; 11-Turning right; 88-Other; 99-Unk. (Non-motorist) 21-Approaching/Leaving Vehicle; 22-Entering/Crossing Location; 23-Playing/Working on Vehicle; 24-Pushing Vehicle; 25-Standing; 26-Walking, Playing, Cycling; 27-Working

Road Character: 1-Straight - Level; 2-Straight - On grade; 3-Straight - Hillcrest; 4-Curve - Level; 5-Curve - On grade; 6-Curve - Hillcrest

Road Surface Condition: 1-Dry; 2-Wet; 3-Snow; 4-Slush; 5-Ice; 6-Contaminate; 7-Water (Standing, etc.); 8-Other; 9-Unk.

Traffic Control Type: 01-Stop and Go Light; 02-Flashing Traffic Signal; 11-RR (X-bucks, Lights & Gates); 12-RR (X-bucks & Lights); 13-RR (X-bucks Only); 21-Officer or Flagman; 22-Oncoming Emergency Vehicle; 31-Pavement Markings (only); 41-Stop Sign; 42-School zone Sign; 43-Yield Sign; 44-Work Zone; 45-Other Warning Signs; 51-Flashing Beacon; 98-None; 99-Unk.

Weather Condition: 1-Clear (no adverse conditions); 2-Rain; 3-Cloudy; 4-Sleet, Hail; 5-Snow; 6-Fog, Smog, Smoke; 7-Blowing Sand, Oil, Dirt or Snow; 8-Severe Crosswinds; 9-Unk.

Light Condition: 1-Daylight; 2-Dawn; 3-Dusk; 4-Dark (Lighting Unspecified); 5-Dark (Street Lamp Lit); 6-Dark (Street Lamp Not Lit); 7-Dark (No lights)

School Bus Involved: 1-Yes, Directly; 2-Yes, Indirectly; 3-No; 9-Unk.

Work Zone: 1-Before 1st Sign; 2-Advanced Warning Area; 3-Transition Area; 4-Activity Area; 5-Termination Area; 1-Yes 2-No

Work Zone Location:

Work Zone Type: 1-Shoulder/Median Work; 2-Lane Shift/Crossover; 3-Intermittent/Moving Work; 4-Lane Closure; 8-Other; 9-Unk.

Workers Present: 1-Yes 2-No

Junction Type: 01-Crossover; 02-Driveway; 03-Five/More Points; 04-Four-way Intersection; 05-Railway Grade Crossing; 07-Shared Use Paths or Trail; 08-T-Intersection; 09-Traffic Circle; 12-Y-Intersection; 13-Nonjunction; 99-Unk.

Contributing Factors

Primary: 03

Others: 07

Driver: 01-Disregarded Signs, Signals, Etc.; 02-Distracted/Inattention; 03-Driving Too Fast for Conditions; 04-Exceeded Authorized Speed Limit; 05-Failed to Yield Right of Way; 06-Ran off Road; 07-Fatigued/Asleep; 08-Followed Too Closely; 09-Made an Improper Turn; 10-Medical Related; 12-Aggressive Operation of Vehicle; 13-Over-correcting/Over-steering; 14-Swerving to Avoiding Object; 15-Wrong Side or Wrong Way; 16-Under the Influence; 17-Vision Obscured (Within Unit); 18-Improper lane Usage/Change; 19-Cell Phone; 20-Texting; 28-Other Improper Action; 29-Unk.

Roadway: 30-Debris; 31-Non-highway Work; 32-Obstruction in Roadway; 33-Road Surface Condition (i.e., Wet); 34-Rut, Holes, Bumps; 35-Shoulders (None, Low, Soft, High); 36-Traffic Control Device (i.e., Missing); 37-Work Zone (Const./Maint./Utility); 38-Worn, Travel-Polished Surface; 48-Other; 49-Unk.

Non-Motorist: 50-Inattentive; 51-Lying &/or Illegally in Roadway; 52-Failure to Yield R. of W.; 53-Not Visible (Dark Clothing); 54-Disregard Signs, Signals, Etc.; 55-Improper Crossing; 56-Darting; 57-Wrong Side of Road; 58-Other; 59-Unk.; 66-Under the Influence; 67-Other Person Under Influence

Environmental: 60-Animal in Road; 61-Glare; 62-Obstruction; 63-Weather Cond.; 68-Other; 69-Unk.

Vehicle Defect: 70-Brakes; 71-Steering; 72-Power Plant; 73-Tires/Wheel; 74-Lights; 75-Signals; 76-Windows/Shield; 77-Restraint System; 78-Truck Coupling; 79-Cargo; 80-Fuel System; 88-Other; 89-Unk.

10

000874

Mail FR-10 to: SC Department of Motor Vehicles
Office of Financial Responsibility (803) 896-5000
PO Box 1498, Blythewood, SC 29016-0050

SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES FR-10 (REV. 11/2011)
NOTICE OF REQUIREMENT

Submit Electronically: Agents or Company Representatives can submit your insurance information at WWW.SC-ALIR.COM

Time	County	Interstate / US Primary / SC Primary / Secondary / County / PP	Collision Location (Rt. # / Name)	Main line / Alternate / Spur / Connection / Business	Miles	Dir.	In (Near) City or Town of:
0105	02	1- 2- 3- 4- 5- 6-	520 / INTERSTATE 20	1- 2- 5- 6- 7-	.24	N E S (W)	NORTH AUGUSTA

To Vehicle Owner/ Operator: Failure to return this form to the Department of Motor Vehicles within 15 days from the date of the collision could result in the suspension of your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.

M-041911

Driver/Pedestrian's Full Name: ROGERS ROBERT

Unit # 01 | Sex M | Race B | Street
#Occ 1 | Birth Date | City, State, & Zip: PINOLA MS 39149
State MS | Driver's License # A | Insurance Company: SENTRY SELECT
Year 2012 | Body TR | Vehicle Make FRHT | VIN # 1FUJGLDR6CLAY4852
State N | Year 2016 | License Plate # 2049550 | Owner's D.L. # NONE
Home Telephone ( ) | Owner's Full Name: PREMIER TRANSPORTATION
Bus. Telephone (877) 3694600 | Street: 323 GASH MEMORIAL BLVD
Contributed To Collision (Yes) No | City, State, & Zip: FOREST PARK GA 30297

Driver/Pedestrian's Full Name:
Unit # | Sex | Race | Street
#Occ | Birth Date | City, State, & Zip
State | Driver's License # | Insurance Company:
Year | Body | Vehicle Make | VIN #
State | Year | License Plate # | Owner's D.L. #
Home Telephone ( ) | Owner's Full Name
Bus. Telephone ( ) | Street
Contributed To Collision Yes No | City, State, & Zip

Driver/Pedestrian's Full Name:
Unit # | Sex | Race | Street
#Occ | Birth Date | City, State, & Zip
State | Driver's License # | Insurance Company:
Year | Body | Vehicle Make | VIN #
State | Year | License Plate # | Owner's D.L. #
Home Telephone ( ) | Owner's Full Name
Bus. Telephone ( ) | Street
Contributed To Collision Yes No | City, State, & Zip

Driver/Pedestrian's Full Name:
Unit # | Sex | Race | Street
#Occ | Birth Date | City, State, & Zip
State | Driver's License # | Insurance Company:
Year | Body | Vehicle Make | VIN #
State | Year | License Plate # | Owner's D.L. #
Home Telephone ( ) | Owner's Full Name
Bus. Telephone ( ) | Street
Contributed To Collision Yes No | City, State, & Zip

All Units Insurance Information
(to be completed by Investigating Officer)

Accident Insurance Information for Unit # 01
Company Name: SENTRY SELECT | Area Code/Phone Number ( )
Agency Name | Policy Number: CT761350002

Accident Insurance Information for Unit #
Company Name | Area Code/Phone Number ( )
Agency Name | Policy Number

Accident Insurance Information for Unit #
Company Name | Area Code/Phone Number ( )
Agency Name | Policy Number

Automobile Liability Insurance Information

Notice of Requirement Accepted → Signature | Y N Refused to Affix Signature? | Y N Vehicle Subject to Registration in SC?

To Be Completed Below or Entered at WWW.SC-ALIR.COM By Insurance Company representative. This form should not be mailed to DMV if insurance information has been submitted electronically
Reference to Unit #: _____, I here by affirm that to the best of my knowledge the vehicle described above was insured by the below stated insurance company on the date of the collision.

The information as contained herein is based solely upon my knowledge and belief as a representative of the above insurance company and no warranty of liability is imputed into the above mentioned insurance as I have listed herein.

Insurance Company | Policy #: | Signature | Title
Beginning Date: | Ending Date: | Policy Holder: | NAIC# (Assigned by S.C. Dept. of Ins.) | Bus. Telephone ( )

Notice: If liability insurance was not in effect for your vehicle involved in the collision, the Department of Motor Vehicles could suspend your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.

If any of the below are applicable, Disregard the above portion.

Form FR-10 Not Issued: Section 56-10-520

☐ Check here if a Form SR-23, Fleet policy of 25 or more vehicles is on file with the Department of Motor Vehicles covering the vehicle.
☐ Check here if a certificate of self-insurance has been issued by the Department of Motor Vehicles covering the vehicle and indicate the certificate number: SI - _____
☐ Check here if liability insurance was not in effect to comply with South Carolina statutory requirements | Signature | Date

No FR-10 Issued to Operator/ Owner of Unit #: _____
Summons Issued to:
For operating or allowing the operation of an uninsured vehicle | Summons Number: | Signature

Investigating Officer's Name	Rank	Badge #	Code	Date	Reviewer's Name	Rank	Internal Agency Code
DEERING - D A	CPL	A33	HP07				16CH019838

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ORIGINAL

SOUTH CAROLINA DPS AND DMV USE ONLY

South Carolina
Uniform Traffic Collision Report
(For Investigating Officers)
Supplemental Bus & Truck Collision Report
(Revised 04/2009)

Amended-Attach Copy of Original Report | Corrected

Page 1 of 1 Pages

Date	Time	County	Route Category	Accident Location (Route Number and Name if Any)	Auxiliary
02-09-2016	0105	02	1-Interstate 4-Secondary; 2-US Primary 5-County; 3-SC Primary 6-PP	on 20 / INTERSTATE 20	1-Mainline 6-Connection; 2-Alternate 7-Business; 5-Spur 9-Other

IF THIS CRASH INCLUDES:

Any truck that has a gross vehicle weight rating (GVWR) of more than 10,000 pounds or a gross combination weight rating (GCWR) of more than 10,000 pounds and is used on public highways. — How Many? 1

OR

Any motor vehicle with seating to transport nine (9) or more people, including the driver — How Many?

OR

Any motor vehicle *(regardless of weight)* displaying a hazardous materials placard; — How Many?

AND RESULTS IN:

Any fatality or fatalities — How Many?

Any person(s) transported for immediate medical services — How Many? 1

Number of Vehicles Towed

Any disabled motor vehicle(s) towed away from the scene — How Many? 1

Complete This Form Only If:

One or More Qualifying Vehicle(s) was Involved - AND

One or More Qualifying Injuries/Fatalities was Sustained - OR

One or More Disabled Vehicle(s) was Towed Away From the Scene

Total Number of Supplemental Forms Required for this Collision: 1

Unit Number 01 **FR-10 Number** M-041911

Carrier Information

Name: PREMIER TRANSPORTATION

Address: 323 CASH MEMORIAL BLVD

City: FOREST PARK **State:** GA **Zip:** 30297

Business Phone Number: 877 369 4600

Identification Numbers

U.S. DOT 0282577 None = 0

State Number S C

(3) Not in Commerce - Other Truck/Bus
(4) Not in Commerce - Government
(5) Other Operation/Not Specified Carrier? 1

Carrier Type: Is this vehicle a(n) (1) Interstate, (2) Intrastate

Was a Citation Issued to this Vehicle? 1-Yes 2-No 3-Pending 1

Investigator's Name	Rank	Date	
DEERING - D A	CPL	02-18-2016	

Reviewer's Name	Rank
J R LaChance	

Access Control

1- No Access Control
2- Full Access Control
3- Partial Access Control — 2

Vehicle Information

Gross Vehicle Weight Rating/ Gross Combination Weight Rating
01- Less than or Equal to 10,000 Pounds
02- 10,001-26,000 Pounds
03- More than 26,000 Pounds
99- Unknown/ Hit and Run — 03

Vehicle Configuration
00- Passenger Car (only w/ HAZMAT placard)
01- Light Truck (only w/ HAZMAT placard)
02- Bus (seats for 9-15 people)
03- Bus (seats for 16 + people)
04- Single Unit Truck (2axles/6+ tires)
05- Single Unit Truck (3 or more axles)
06- Truck w/ Trailer
07- Truck-Tractor Only (Bobtail)
08- Tractor w/ Semi-Trailer
09- Tractor w/ Double Trailers
10- Tractor w/ Triple Trailers
98- Other/Unable to Classify
99- Unknown/ Hit and Run — 08

Bus Use
01- Not used as a bus
02- School
03- Transit/Commuter/Sch service
04- Intercity
05- Charter/Tour
06- Shuttle/Church
07- Unknown — 01

Cargo Body Type
00- Bus (seats for 9-15 people)
01- Bus (seats for 16+ people)
02- Enclosed Box
03- Cargo Tank
04- Flat Bed
05- Dump
06- Concrete Mixer
07- Auto Transporter
08- Garbage/Refuse
09- Grain, Chips, Gravel
10- Pole
11- Intermodal Container
12- Log
13- Veh. Towing Vehicle
97- N/A
98- Other
99- Unknown/Hit & Run — 02

Trailer Length and Width

Length
00- No Trailer
01- Less than 480 in. (40 ft)
02- 481 in. - 576 in (48 ft.)
03- 577 in. or more
99- Unknown/ Hit and Run
Trailer 1 Length: 03 | Trailer 2 Length:

Width
00- No Trailer
01- Less than 60 in. (5 ft.)
02- 61 in. - 84 in. (7 ft.)
03- 85 in. or more
99- Unknown/ Hit and Run
Trailer 1 Width: 03 | Trailer 2 Width:

Hazardous Material Involvment

Was This Vehicle Carrying Hazardous Materials? 1-Yes 2-No 3-Unknown/Hit and Run — 2

Did the Vehicle Have a Hazardous Material Placard? 1-Yes 2-No 3-Unknown/Hit and Run — 2

If "Yes", What Class of Hazardous Material (off placard/shipping papers)?
01- Class 1 (Explosives)
02- Class 2 (Gases)
03- Class 3 (Flammable Liquids)
04- Class 4 (Flammable Solids)
05- Class 5 (Oxidizing Substance)
06- Class 6 (Poison/Infectious Substance)
07- Class 7 (Radioactive)
08- Class 8 (Corrosives)
09- Class 9 (Misc. Goods)
10- No Placard
99- Other/Unknown/Hit and Run

If "YES", enter 4 digit HAZMAT ID (Look on placard/shipping papers)

Did Hazardous Material Release from this Vehicle? 1-Yes 2-No 3-Unknown/Hit and Run — 2

Name of Agency Notified (In Case of Release):

This page intentionally left blank.

South Carolina Highway Patrol

Wrecker Rotation Inspection

Troop: Troop7	County: Aiken	Zone: One	Date: 11/25/2015
Business Name: Waynes Automotive Center INC			
Name of Business Owner(s): Jeff Corbett			
Address: 1997 Richland Ave E, Aiken SC, 29801			Phone: 803-644-9045
Wrecker Class: ☒A ☒B ☒C (check all that are applicable)		Inspector's Name: J.R. LaChance	Rank: FSgt.
Nature of Inspection: ☒Annual Renewal Inspection	☐New Service	☐Re-inspection of Deficiencies	

Business

Requirements:	C	NC	Inspector's Remarks
Is business physically located in Zone in which it applied?	☒	☐	
Is business properly licensed to operate by appropriate local government agency?	☒	☐	
Does business have a sign that is clearly visible with name, phone number & hours?	☒	☐	
Is the wrecker(s) housed at business location during normal business hours?	☒	☐	
Are all towed vehicles towed to this location unless the owner requests otherwise?	☒	☐	
Are "normal business hours" clearly posted?	☒	☐	
Has business owner(s) or service applied only once in desired zone?	☒	☐	
Does business have only one phone number that, when called, dials to that location?	☒	☐	
Does business have SCHP Towing Logs? (*Inspect towing logs for completeness & accuracy*)	☒	☐	☐N/A - new service
Does business have agent present at **ALL** times during normal business hours?	☒	☐	
Is business available on a 24/7 basis at the request of SCHP?	☒	☐	
[redacted]siness willing to accept collect calls from SCHP if necessary?	☒	☐	
[redacted]siness able to provide business cards to vehicle operators/owners?	☒	☐	
Is business able to respond within 45 minutes?	☒	☐	
Does business have proper storage area? (lighted, fenced, secured from public)	☒	☐	
Is fence at least 6 feet in height, secure and completely intact?	☒	☐	
Does business have inside storage, tarpaulins or other devices to protect property?	☒	☐	
Does business accept credit cards (*If not, may be skipped over. Will remain at top of list*)	☒	☐	
Are all drivers properly licensed and clear of any major violations?	☒	☐	

Insurance Verification

Requirements:				
Name of Insurance Company: Universal Underwriters		Name of Agent: YouZoom Insurance Services		
Phone: 1-888-240-8803		Name of Company Representative:		
Coverage Types and Limits:		C	NC	Inspector's Remarks
Liability Coverage	Policy Number: 330802 Effective Dates: 9/19/2015 to 9/19/2016			
Class A – No less than $300,000.00	Insured Limit: $ 1,000,000	☒	☐	
Class B – No less than $500,000.00	Insured Limit: $ 1,000,000	☒	☐	
Class C – No less than $750,000.00	Insured Limit: $ 1,000,000	☒	☐	
Cargo Coverage	Policy Number: 330802 Effective Dates: 9/19/2015 to 9/19/2016			
Class A – No less than $75,000.00	Insured Limit: $ 1,000,000	☒	☐	
Class B – No less than $150,000.00	Insured Limit: $ 1,000,000	☒	☐	
Class C – No less than $250,000.00	Insured Limit: $ 1,000,000	☒	☐	
Garage Keepers	Policy Number: 330802 Effective Dates: 9/19/2015 to 9/19/2016			
Class A – No less than $100,000.00	Insured Limit: $ 500,000	☒	☐	
Class B – No less than $200,000.00	Insured Limit: $ 500,000	☒	☐	

Inspection Codes:

C = Compliant **NC = Not in Compliance** **NA = Not Applicable**

South Carolina Highway Patrol

Wrecker Rotation Inspection

Class C – No less than $200,000.00	Insured Limit: $ 500,000	☒	☐

NOTE: Attach copy of the Certificate of Insurance

Class A Truck Inspection Supplement

Class A - Make: Nissan Model: UD Year: 2003 License Plate: P430030 VIN: JNAMB33H53AH70021

Conventional with boom Tow Capability- 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 10,000 pounds?	☐	☐	
Does individual boom have rated capacity of not less than 8,000 pounds?	☐	☐	
Is truck equipped with an individual PTO or hydraulic power winch with rated capacity not less than 8,000 pounds with at least 100 feet of 3/8 inch cable drum?	☐	☐	
Is truck equipped with wheel lift with retracting lifting capacity of not less than 3,500 pounds, with safety chains?	☐	☐	
Does truck have dual rear wheels?	☐	☐	

Class A Rollback: ☒ **Rollback Only**

Rollback with Tow Capacity of 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 11,000 pounds?	☒	☐	
Does truck have at least an 8,000 pound rated capacity winch with at least 50 feet of 3/8 inch cable?	☒	☐	

Safety Equipment:

Requirement:	C	NC	Inspector's Remarks
Is truck equipped with a fire extinguisher?	☒	☐	
Is truck equipped with advance warning devices?	☒	☐	
Is truck equipped with reflective traffic safety vest(s) for worker(s)?	☒	☐	
Is truck equipped with a flashlight?	☒	☐	
Is truck equipped with amber flashing lights visible at all times in all directions for 500 feet?	☒	☐	
Is truck in safe condition and in compliance with state law? (e.g., tires, lights, horn, etc.)	☒	☐	
Is truck in good mechanical condition to handle any towing situation of this class?	☒	☐	

General Equipment and Required Items:

Requirement:	C	NC	Inspector's Remarks
Is truck properly registered and meets state law licensing requirements?	☒	☐	
Does truck have a towing log which accurately reflects all towing at the request of SCDPS?	☒	☐	
Is truck equipped with a broom?	☒	☐	
Is truck equipped with a shovel?	☒	☐	
Is truck equipped with a garbage can or other similar container for holding debris?	☒	☐	
Is truck equipped with a sufficient supply of commercial absorbent?	☒	☐	
Is a copy of approved fees kept in the truck and available for presentation upon request?	☒	☐	
Does truck have signs on driver/passenger doors meeting requirements of the regulations?	☒	☐	
Is truck registered in a name other than the service? Is that name on the doors?	☒	☐	
Are the sign letters plainly visible and in a contrasting color to that of the truck?	☒	☐	

Total number of wreckers for this business: 14 Vehicle Inspection Sheet 1 of 1

Inspection Codes:

C = Compliant **NC = Not In Compliance** **NA = Not Applicable**

South Carolina Highway Patrol

Wrecker Rotation Inspection

Class C – No less than $200,000.00	Insured Limit: $ 500,000	☒	☐	

NOTE: Attach copy of the Certificate of Insurance.

Class A Truck Inspection Supplement

Class A - Make: Nissan **Model:** UD **Year:** 2003 **License Plate:** P522131 **VIN:** JNAMB33H93AH70104

Conventional with boom Tow Capability- 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 10,000 pounds?	☐	☐	
Does individual boom have rated capacity of not less than 8,000 pounds?	☐	☐	
Is truck equipped with an individual PTO or hydraulic power winch with rated capacity not less than 8,000 pounds with at least 100 feet of 3/8 inch cable drum?	☐	☐	
Is truck equipped with wheel lift with retracting lifting capacity of not less than 3,500 pounds, with safety chains?	☐	☐	
Does truck have dual rear wheels?	☐	☐	

Class A Rollback: ☒ **Rollback Only**

Rollback with Tow Capacity of 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 11,000 pounds?	☒	☐	
Does truck have at least an 8,000 pound rated capacity winch with at least 50 feet of 3/8 inch cable?	☒	☐	

ty Equipment:

Requirement:	C	NC	Inspector's Remarks
Is truck equipped with a fire extinguisher?	☒	☐	
Is truck equipped with advance warning devices?	☒	☐	
Is truck equipped with reflective traffic safety vest(s) for worker(s)?	☒	☐	
Is truck equipped with a flashlight?	☒	☐	
Is truck equipped with amber flashing lights visible at all times in all directions for 500 feet?	☒	☐	
Is truck in safe condition and in compliance with state law? (e.g., tires, lights, horn, etc.)	☒	☐	
Is truck in good mechanical condition to handle any towing situation of this class?	☒	☐	

General Equipment and Required Items:

Requirement:	C	NC	Inspector's Remarks
Is truck properly registered and meets state law licensing requirements?	☒	☐	
Does truck have a towing log which accurately reflects all towing at the request of SCDPS?	☒	☐	
Is truck equipped with a broom?	☒	☐	
Is truck equipped with a shovel?	☒	☐	
Is truck equipped with a garbage can or other similar container for holding debris?	☒	☐	
Is truck equipped with a sufficient supply of commercial absorbent?	☒	☐	
Is a copy of approved fees kept in the truck and available for presentation upon request?	☒	☐	
Does truck have signs on driver/passenger doors meeting requirements of the regulations?	☒	☐	
Is truck registered in a name other than the service? Is that name on the doors?	☒	☐	
Are the sign letters plainly visible and in a contrasting color to that of the truck?	☒	☐	

Total number of wreckers for this business: 14 Vehicle Inspection Sheet 1 of 1

o Inspection Codes:

C = Compliant **NC = Not in Compliance** **NA = Not Applicable**

South Carolina Highway Patrol

Wrecker Rotation Inspection

Class B Truck Inspection Supplement

Class B - Make: Nissan Model: UD Year: 2008 License Plate: SM17345 VIN: JNAMB81H78AN70066

Tow Capability- 7,001 up to 17,000 pounds	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 22,000 pounds?	☒	☐	
Does individual boom have rated capacity of not less than 12 tons?	☒	☐	
Is truck equipped with 2 winches, each rated at 10,000 pounds capacity or greater?	☒	☐	
Is truck equipped with wheel lift with retracting lifting capacity of not less than 6,500 pounds, with safety chains?	☒	☐	

Safety Equipment:

Requirement:	C	NC	Inspector's Remarks
Is truck equipped with a fire extinguisher?	☒	☐	
Is truck equipped with advance warning devices?	☒	☐	
Is truck equipped with reflective traffic safety vest(s) for worker(s)?	☒	☐	
Is truck equipped with a flashlight?	☒	☐	
Is truck equipped with amber flashing lights visible at all times in all directions for 500 feet?	☒	☐	
Is truck in safe condition and in compliance with state law? (e.g., tires, lights, horn, etc.)	☒	☐	
[illegible]uck in good mechanical condition to handle any towing situation of this class?	☒	☐	

General Equipment and Required Items:

Requirement:	C	NC	Inspector's Remarks
Is truck properly registered and meets state law licensing requirements?	☒	☐	
Does truck have a towing log which accurately reflects all towing at the request of SCDPS?	☒	☐	
Is truck equipped with a broom?	☒	☐	
Is truck equipped with a shovel?	☒	☐	
Is truck equipped with a garbage can or other similar container for holding debris?	☒	☐	
Is truck equipped with a sufficient supply of commercial absorbent?	☒	☐	
Is a copy of approved fees kept in the truck and available for presentation upon request?	☒	☐	
Does truck have signs on driver/passenger doors meeting requirements of the regulations?	☒	☐	
Is truck registered in a name other than the service? Is that name on the doors?	☒	☐	
Are the sign letters plainly visible and in a contrasting color to that of the truck?	☒	☐	

Total number of wreckers for this business: 14 Vehicle Inspection Sheet 3 of 14

[illegible]o Inspection Codes:
C = Compliant NC = Not in Compliance NA = Not Applicable

Form SCHP-A-007 revised July 2014

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South Carolina Highway Patrol

Wrecker Rotation Inspection

Class C – No less than $200,000.00	Insured Limit: $ 500,000	☒	☐

NOTE: Attach copy of the Certificate of Insurance

Class A Truck Inspection Supplement

Class A - Make: Nissan Model: UD Year: 2008 License Plate: P406545 VIN: JNAMB81H48AN70171

Conventional with boom Tow Capability- 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 10,000 pounds?	☐	☐	
Does individual boom have rated capacity of not less than 8,000 pounds?	☐	☐	
Is truck equipped with an individual PTO or hydraulic power winch with rated capacity not less than 8,000 pounds with at least 100 feet of 3/8 inch cable drum?	☐	☐	
Is truck equipped with wheel lift with retracting lifting capacity of not less than 3,500 pounds, with safety chains?	☐	☐	
Does truck have dual rear wheels?	☐	☐	

Class A Rollback: **X Rollback Only**

Rollback with Tow Capacity of 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 11,000 pounds?	☒	☐	
Does truck have at least an 8,000 pound rated capacity winch with at least 50 feet of 3/8 inch cable?	☒	☐	

Safety Equipment:

Requirement:	C	NC	Inspector's Remarks
Is truck equipped with a fire extinguisher?	☒	☐	
Is truck equipped with advance warning devices?	☒	☐	
Is truck equipped with reflective traffic safety vest(s) for worker(s)?	☒	☐	
Is truck equipped with a flashlight?	☒	☐	
Is truck equipped with amber flashing lights visible at all times in all directions for 500 feet?	☒	☐	
Is truck in safe condition and in compliance with state law? (e.g., tires, lights, horn, etc.)	☒	☐	
Is truck in good mechanical condition to handle any towing situation of this class?	☒	☐	

General Equipment and Required Items:

Requirement:	C	NC	Inspector's Remarks
Is truck properly registered and meets state law licensing requirements?	☒	☐	
Does truck have a towing log which accurately reflects all towing at the request of SCDPS?	☒	☐	
Is truck equipped with a broom?	☒	☐	
Is truck equipped with a shovel?	☒	☐	
Is truck equipped with a garbage can or other similar container for holding debris?	☒	☐	
Is truck equipped with a sufficient supply of commercial absorbent?	☒	☐	
Is a copy of approved fees kept in the truck and available for presentation upon request?	☒	☐	
Does truck have signs on driver/passenger doors meeting requirements of the regulations?	☒	☐	
Is truck registered in a name other than the service? Is that name on the doors?	☒	☐	
Are the sign letters plainly visible and in a contrasting color to that of the truck?	☒	☐	

Total number of wreckers for this business: 14 Vehicle Inspection Sheet of

Inspection Codes:

C = Compliant **NC = Not in Compliance** **NA = Not Applicable**

South Carolina Highway Patrol

Wrecker Rotation Inspection

Class C – No less than $200,000.00	Insured Limit: $ 500,000	☒	☐

NOTE: Attach copy of the Certificate of Insurance.

Class A Truck Inspection Supplement

Class A - Make: Nissan Model: UD Year: 2007 License Plate: P143821 VIN: JNAMB80H77AH60520

Conventional with boom Tow Capability- 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 10,000 pounds?	☐	☐	
Does individual boom have rated capacity of not less than 8,000 pounds?	☐	☐	
Is truck equipped with an individual PTO or hydraulic power winch with rated capacity not less than 8,000 pounds with at least 100 feet of 3/8 inch cable drum?	☐	☐	
Is truck equipped with wheel lift with retracting lifting capacity of not less than 3,500 pounds, with safety chains?	☐	☐	
Does truck have dual rear wheels?	☐	☐	

Class A Rollback: X Rollback Only

Rollback with Tow Capacity of 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 11,000 pounds?	☒	☐	
Does truck have at least an 8,000 pound rated capacity winch with at least 50 feet of 3/8 inch cable?	☒	☐	

ty Equipment:

Requirement:	C	NC	Inspector's Remarks
Is truck equipped with a fire extinguisher?	☒	☐	
Is truck equipped with advance warning devices?	☒	☐	
Is truck equipped with reflective traffic safety vest(s) for worker(s)?	☒	☐	
Is truck equipped with a flashlight?	☒	☐	
Is truck equipped with amber flashing lights visible at all times in all directions for 500 feet?	☒	☐	
Is truck in safe condition and in compliance with state law? (e.g., tires, lights, horn, etc.)	☒	☐	
Is truck in good mechanical condition to handle any towing situation of this class?	☒	☐	

General Equipment and Required Items:

Requirement:	C	NC	Inspector's Remarks
Is truck properly registered and meets state law licensing requirements?	☒	☐	
Does truck have a towing log which accurately reflects all towing at the request of SCDPS?	☒	☐	
Is truck equipped with a broom?	☒	☐	
Is truck equipped with a shovel?	☒	☐	
Is truck equipped with a garbage can or other similar container for holding debris?	☒	☐	
Is truck equipped with a sufficient supply of commercial absorbent?	☒	☐	
Is a copy of approved fees kept in the truck and available for presentation upon request?	☒	☐	
Does truck have signs on driver/passenger doors meeting requirements of the regulations?	☒	☐	
Is truck registered in a name other than the service? Is that name on the doors?	☒	☐	
Are the sign letters plainly visible and in a contrasting color to that of the truck?	☒	☐	

Total number of wreckers for this business: 14 Vehicle Inspection Sheet of

o Inspection Codes:

C = Compliant **NC = Not in Compliance** **NA = Not Applicable**

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South Carolina Highway Patrol

Wrecker Rotation Inspection

Class C – No less than $200,000.00	Insured Limit: $ 500,000	☒	☐	

NOTE: Attach copy of the Certificate of Insurance

Class A Truck Inspection Supplement

Class A - Make: Nissan **Model:** UD **Year:** 2007 **License Plate:** P176515 **VIN:** JNAMB80H77AH60562

Conventional with boom Tow Capability- 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 10,000 pounds?	☐	☐	
Does individual boom have rated capacity of not less than 8,000 pounds?	☐	☐	
Is truck equipped with an individual PTO or hydraulic power winch with rated capacity not less than 8,000 pounds with at least 100 feet of 3/8 inch cable drum?	☐	☐	
Is truck equipped with wheel lift with retracting lifting capacity of not less than 3,500 pounds, with safety chains?	☐	☐	
Does truck have dual rear wheels?	☐	☐	

Class A Rollback: X **Rollback Only**

Rollback with Tow Capacity of 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 11,000 pounds?	☒	☐	
Does truck have at least an 8,000 pound rated capacity winch with at least 50 feet of 3/8 inch cable?	☒	☐	

Safety Equipment:

Requirement:	C	NC	Inspector's Remarks
Is truck equipped with a fire extinguisher?	☒	☐	
Is truck equipped with advance warning devices?	☒	☐	
Is truck equipped with reflective traffic safety vest(s) for worker(s)?	☒	☐	
Is truck equipped with a flashlight?	☒	☐	
Is truck equipped with amber flashing lights visible at all times in all directions for 500 feet?	☒	☐	
Is truck in safe condition and in compliance with state law? (e.g., tires, lights, horn, etc.)	☒	☐	
Is truck in good mechanical condition to handle any towing situation of this class?	☒	☐	

General Equipment and Required Items:

Requirement:	C	NC	Inspector's Remarks
Is truck properly registered and meets state law licensing requirements?	☒	☐	
Does truck have a towing log which accurately reflects all towing at the request of SCDPS?	☒	☐	
Is truck equipped with a broom?	☒	☐	
Is truck equipped with a shovel?	☒	☐	
Is truck equipped with a garbage can or other similar container for holding debris?	☒	☐	
Is truck equipped with a sufficient supply of commercial absorbent?	☒	☐	
Is a copy of approved fees kept in the truck and available for presentation upon request?	☒	☐	
Does truck have signs on driver/passenger doors meeting requirements of the regulations?	☒	☐	
Is truck registered in a name other than the service? Is that name on the doors?	☒	☐	
Are the sign letters plainly visible and in a contrasting color to that of the truck?	☒	☐	

Total number of wreckers for this business: 14 Vehicle Inspection Sheet of

Inspection Codes:

C = Compliant **NC = Not in Compliance** **NA = Not Applicable**

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South Carolina Highway Patrol

Wrecker Rotation Inspection

Class C – No less than $200,000.00	Insured Limit: $ 500,000	☒	☐

NOTE: Attach copy of the Certificate of Insurance

Class A Truck Inspection Supplement

Class A - **Make:** Nissan **Model:** UD **Year:** 2007 **License Plate:** P374606 **VIN:** JNAMB80H27AH60196

Conventional with boom Tow Capability- 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 10,000 pounds?	☐	☐	
Does individual boom have rated capacity of not less than 8,000 pounds?	☐	☐	
Is truck equipped with an individual PTO or hydraulic power winch with rated capacity not less than 8,000 pounds with at least 100 feet of 3/8 inch cable drum?	☐	☐	
Is truck equipped with wheel lift with retracting lifting capacity of not less than 3,500 pounds, with safety chains?	☐	☐	
Does truck have dual rear wheels?	☐	☐	

Class A Rollback: X **Rollback Only**

Rollback with Tow Capacity of 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 11,000 pounds?	☒	☐	
Does truck have at least an 8,000 pound rated capacity winch with at least 50 feet of 3/8 inch cable?	☒	☐	

ety Equipment:

Requirement:	C	NC	Inspector's Remarks
Is truck equipped with a fire extinguisher?	☒	☐	
Is truck equipped with advance warning devices?	☒	☐	
Is truck equipped with reflective traffic safety vest(s) for worker(s)?	☒	☐	
Is truck equipped with a flashlight?	☒	☐	
Is truck equipped with amber flashing lights visible at all times in all directions for 500 feet?	☒	☐	
Is truck in safe condition and in compliance with state law? (e.g., tires, lights, horn, etc.)	☒	☐	
Is truck in good mechanical condition to handle any towing situation of this class?	☒	☐	

General Equipment and Required Items:

Requirement:	C	NC	Inspector's Remarks
Is truck properly registered and meets state law licensing requirements?	☒	☐	
Does truck have a towing log which accurately reflects all towing at the request of SCDPS?	☒	☐	
Is truck equipped with a broom?	☒	☐	
Is truck equipped with a shovel?	☒	☐	
Is truck equipped with a garbage can or other similar container for holding debris?	☒	☐	
Is truck equipped with a sufficient supply of commercial absorbent?	☒	☐	
Is a copy of approved fees kept in the truck and available for presentation upon request?	☒	☐	
Does truck have signs on driver/passenger doors meeting requirements of the regulations?	☒	☐	
Is truck registered in a name other than the service? Is that name on the doors?	☒	☐	
Are the sign letters plainly visible and in a contrasting color to that of the truck?	☒	☐	

Total number of wreckers for this business: 14 Vehicle Inspection Sheet of

o Inspection Codes:

C = Compliant **NC = Not in Compliance** **NA = Not Applicable**

South Carolina Highway Patrol

Wrecker Rotation Inspection

Class C – No less than $200,000.00	Insured Limit: $ 500,000	☒	☐

NOTE: Attach copy of the Certificate of Insurance

Class A Truck Inspection Supplement

Class A - Make: Ford Model: F650 Year: 2007 License Plate: P430029 VIN: 3FRNX65F87V511915

Conventional with boom Tow Capability- 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 10,000 pounds?	☐	☐	
Does individual boom have rated capacity of not less than 8,000 pounds?	☐	☐	
Is truck equipped with an individual PTO or hydraulic power winch with rated capacity not less than 8,000 pounds with at least 100 feet of 3/8 inch cable drum?	☐	☐	
Is truck equipped with wheel lift with retracting lifting capacity of not less than 3,500 pounds, with safety chains?	☐	☐	
Does truck have dual rear wheels?	☐	☐	

Class A Rollback: X Rollback Only

Rollback with Tow Capacity of 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 11,000 pounds?	☒	☐	
Does truck have at least an 8,000 pound rated capacity winch with at least 50 feet of 3/8 inch cable?	☒	☐	

ty Equipment:

Requirement:	C	NC	Inspector's Remarks
Is truck equipped with a fire extinguisher?	☒	☐	
Is truck equipped with advance warning devices?	☒	☐	
Is truck equipped with reflective traffic safety vest(s) for worker(s)?	☒	☐	
Is truck equipped with a flashlight?	☒	☐	
Is truck equipped with amber flashing lights visible at all times in all directions for 500 feet?	☒	☐	
Is truck in safe condition and in compliance with state law? (e.g., tires, lights, horn, etc.)	☒	☐	
Is truck in good mechanical condition to handle any towing situation of this class?	☒	☐	

General Equipment and Required Items:

Requirement:	C	NC	Inspector's Remarks
Is truck properly registered and meets state law licensing requirements?	☒	☐	
Does truck have a towing log which accurately reflects all towing at the request of SCDPS?	☒	☐	
Is truck equipped with a broom?	☒	☐	
Is truck equipped with a shovel?	☒	☐	
Is truck equipped with a garbage can or other similar container for holding debris?	☒	☐	
Is truck equipped with a sufficient supply of commercial absorbent?	☒	☐	
Is a copy of approved fees kept in the truck and available for presentation upon request?	☒	☐	
Does truck have signs on driver/passenger doors meeting requirements of the regulations?	☒	☐	
Is truck registered in a name other than the service? Is that name on the doors?	☒	☐	
Are the sign letters plainly visible and in a contrasting color to that of the truck?	☒	☐	

Total number of wreckers for this business: 14 Vehicle Inspection Sheet of

o Inspection Codes:

C = Compliant **NC = Not in Compliance** **NA = Not Applicable**

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South Carolina Highway Patrol

Wrecker Rotation Inspection

Class C – No less than $200,000.00	Insured Limit: $ 500,000	☒	☐	

NOTE: Attach copy of the Certificate of Insurance

Class A Truck Inspection Supplement

Class A - Make: Ford Model: F750 Year: 2008 License Plate: PS15046 VIN: 3FRXF75G08V660864

Conventional with boom Tow Capability- 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 10,000 pounds?	☐	☐	
Does individual boom have rated capacity of not less than 8,000 pounds?	☐	☐	
Is truck equipped with an individual PTO or hydraulic power winch with rated capacity not less than 8,000 pounds with at least 100 feet of 3/8 inch cable drum?	☐	☐	
Is truck equipped with wheel lift with retracting lifting capacity of not less than 3,500 pounds, with safety chains?	☐	☐	
Does truck have dual rear wheels?	☐	☐	

Class A Rollback: X Rollback Only

Rollback with Tow Capacity of 7,000 pounds or less	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 11,000 pounds?	☒	☐	
Does truck have at least an 8,000 pound rated capacity winch with at least 50 feet of 3/8 inch cable?	☒	☐	

ty Equipment:

Requirement:	C	NC	Inspector's Remarks
Is truck equipped with a fire extinguisher?	☒	☐	
Is truck equipped with advance warning devices?	☒	☐	
Is truck equipped with reflective traffic safety vest(s) for worker(s)?	☒	☐	
Is truck equipped with a flashlight?	☒	☐	
Is truck equipped with amber flashing lights visible at all times in all directions for 500 feet?	☒	☐	
Is truck in safe condition and in compliance with state law? (e.g., tires, lights, horn, etc.)	☒	☐	
Is truck in good mechanical condition to handle any towing situation of this class?	☒	☐	

General Equipment and Required Items:

Requirement:	C	NC	Inspector's Remarks
Is truck properly registered and meets state law licensing requirements?	☒	☐	
Does truck have a towing log which accurately reflects all towing at the request of SCDPS?	☒	☐	
Is truck equipped with a broom?	☒	☐	
Is truck equipped with a shovel?	☒	☐	
Is truck equipped with a garbage can or other similar container for holding debris?	☒	☐	
Is truck equipped with a sufficient supply of commercial absorbent?	☒	☐	
Is a copy of approved fees kept in the truck and available for presentation upon request?	☒	☐	
Does truck have signs on driver/passenger doors meeting requirements of the regulations?	☒	☐	
Is truck registered in a name other than the service? Is that name on the doors?	☒	☐	
Are the sign letters plainly visible and in a contrasting color to that of the truck?	☒	☐	

Total number of wreckers for this business: 14 Vehicle Inspection Sheet of

Inspection Codes:

C = Compliant **NC = Not In Compliance** **NA = Not Applicable**

South Carolina Highway Patrol

Wrecker Rotation Inspection

Class B Truck Inspection Supplement

Class B - Make: Ford Model: F750 Year: 2001 License Plate: SM22312 VIN: 3FDXF75R51MA75543

Tow Capability- 7,001 up to 17,000 pounds	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 22,000 pounds?	☒	☐	
Does individual boom have rated capacity of not less than 12 tons?	☒	☐	
Is truck equipped with 2 winches, each rated at 10,000 pounds capacity or greater?	☒	☐	
Is truck equipped with wheel lift with retracting lifting capacity of not less than 6,500 pounds, with safety chains?	☒	☐	

Safety Equipment:

Requirement:	C	NC	Inspector's Remarks
Is truck equipped with a fire extinguisher?	☒	☐	
Is truck equipped with advance warning devices?	☒	☐	
Is truck equipped with reflective traffic safety vest(s) for worker(s)?	☒	☐	
Is truck equipped with a flashlight?	☒	☐	
Is truck equipped with amber flashing lights visible at all times in all directions for 500 feet?	☒	☐	
Is truck in safe condition and in compliance with state law? (e.g., tires, lights, horn, etc.)	☒	☐	
[illegible]ck in good mechanical condition to handle any towing situation of this class?	☒	☐	

General Equipment and Required Items:

Requirement:	C	NC	Inspector's Remarks
Is truck properly registered and meets state law licensing requirements?	☒	☐	
Does truck have a towing log which accurately reflects all towing at the request of SCDPS?	☒	☐	
Is truck equipped with a broom?	☒	☐	
Is truck equipped with a shovel?	☒	☐	
Is truck equipped with a garbage can or other similar container for holding debris?	☒	☐	
Is truck equipped with a sufficient supply of commercial absorbent?	☒	☐	
Is a copy of approved fees kept in the truck and available for presentation upon request?	☒	☐	
Does truck have signs on driver/passenger doors meeting requirements of the regulations?	☒	☐	
Is truck registered in a name other than the service? Is that name on the doors?	☒	☐	
Are the sign letters plainly visible and in a contrasting color to that of the truck?	☒	☐	

Total number of wreckers for this business: 14 Vehicle Inspection Sheet 3 of 14

[illegible] Inspection Codes:
C = Compliant NC = Not in Compliance NA = Not Applicable

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South Carolina Highway Patrol

Wrecker Rotation Inspection

Class C Truck Inspection Supplement

Class C - Make: FRHT Model: FLD Year: 1995 License Plate: SM23122 VIN: 1FUYDEDBXSP780933

Tow Capability- vehicles weighting in excess of 17,000 pounds	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 46,000 pounds?	☒	☐	
Does truck have tandem axles or cab to axle length of not less than 102 inches?	☒	☐	
Does truck have a single or double boom rated capacity of not less than 50,000 pounds?	☒	☐	
Is truck equipped with a single winch with a rated capacity of 50,000 pounds or an individual power winch with a rated capacity of not less than 25,000 pounds and a total rating with both winches of 50,000 pounds?	☒	☐	
Is truck equipped with a manufactured wheel lift with retracting lifting capacity of not less than 12,000 pounds, with safety chains?	☒	☐	
Is truck equipped with 150 feet of 5/8 cable or larger, plus 50 feet of 5/8 drop cable?	☒	☐	
Does truck have airbrakes constructed so as to lock wheels automatically upon failure?	☒	☐	
Does truck have light and airbrake hookups?	☒	☐	
Did truck pass State Transport Police Inspection? (attach copy of STP Inspection)	☒	☐	

Safety Equipment:

Requirement:	C	NC	Inspector's Remarks
Is truck equipped with a fire extinguisher?	☒	☐	
[redacted]uck equipped with advance warning devices?	☒	☐	
[redacted]uck equipped with reflective traffic safety vest(s) for worker(s)?	☒	☐	
Is truck equipped with a flashlight?	☒	☐	
Is truck equipped with amber flashing lights visible at all times in all directions for 500 feet?	☒	☐	
Is truck in safe condition and in compliance with state law? (e.g., tires, lights, horn, etc.)	☒	☐	
Is truck in good mechanical condition to handle any towing situation of this class?	☒	☐	
	☐	☐	

General Equipment and Required Items:

Requirement:	C	NC	Inspector's Remarks
Is truck properly registered and meets state law licensing requirements?	☒	☐	
Does truck have a towing log which accurately reflects all towing at the request of SCDPS?	☒	☐	
Is truck equipped with a broom?	☒	☐	
Is truck equipped with a shovel?	☒	☐	
Is truck equipped with a garbage can or other similar container for holding debris?	☒	☐	
Is truck equipped with a sufficient supply of commercial absorbent?	☒	☐	
Is a copy of approved fees kept in the truck and available for presentation upon request?	☒	☐	
Does truck have signs on driver/passenger doors meeting requirements of the regulations?	☒	☐	
Is truck registered in a name other than the service? Is that name on the doors?	☒	☐	
Are the sign letters plainly visible and in a contrasting color to that of the truck?	☒	☐	

Total number of wrecker for this business: 13 Vehicle Inspection Sheet of

[redacted] Inspection Codes:

C = Compliant NC = Not In Compliance NA = Not Applicable

South Carolina Highway Patrol

Wrecker Rotation Inspection

Class C Truck Inspection Supplement

Class C - Make: PTRB Model: 378 Year: 2007 License Plate: SM21580 VIN: 1NPFL4TX67N644450

Tow Capability- vehicles weighting in excess of 17,000 pounds	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 46,000 pounds?	☒	☐	
Does truck have tandem axles or cab to axle length of not less than 102 inches?	☒	☐	
Does truck have a single or double boom rated capacity of not less than 50,000 pounds?	☒	☐	
Is truck equipped with a single winch with a rated capacity of 50,000 pounds or an individual power winch with a rated capacity of not less than 25,000 pounds and a total rating with both winches of 50,000 pounds?	☒	☐	
Is truck equipped with a manufactured wheel lift with retracting lifting capacity of not less than 12,000 pounds, with safety chains?	☒	☐	
Is truck equipped with 150 feet of 5/8 cable or larger, plus 50 feet of 5/8 drop cable?	☒	☐	
Does truck have airbrakes constructed so as to lock wheels automatically upon failure?	☒	☐	
Does truck have light and airbrake hookups?	☒	☐	
Did truck pass State Transport Police Inspection? (attach copy of STP Inspection)	☒	☐	

Safety Equipment:

Requirement:	C	NC	Inspector's Remarks
Is truck equipped with a fire extinguisher?	☒	☐	
Is truck equipped with advance warning devices?	☒	☐	
Is truck equipped with reflective traffic safety vest(s) for worker(s)?	☒	☐	
Is truck equipped with a flashlight?	☒	☐	
Is truck equipped with amber flashing lights visible at all times in all directions for 500 feet?	☒	☐	
Is truck in safe condition and in compliance with state law? (e.g., tires, lights, horn, etc.)	☒	☐	
Is truck in good mechanical condition to handle any towing situation of this class?	☒	☐	
	☐	☐	

General Equipment and Required Items:

Requirement:	C	NC	Inspector's Remarks
Is truck properly registered and meets state law licensing requirements?	☒	☐	
Does truck have a towing log which accurately reflects all towing at the request of SCDPS?	☒	☐	
Is truck equipped with a broom?	☒	☐	
Is truck equipped with a shovel?	☒	☐	
Is truck equipped with a garbage can or other similar container for holding debris?	☒	☐	
Is truck equipped with a sufficient supply of commercial absorbent?	☒	☐	
Is a copy of approved fees kept in the truck and available for presentation upon request?	☒	☐	
Does truck have signs on driver/passenger doors meeting requirements of the regulations?	☒	☐	
Is truck registered in a name other than the service? Is that name on the doors?	☒	☐	
Are the sign letters plainly visible and in a contrasting color to that of the truck?	☒	☐	

Total number of wrecker for this business: 13 Vehicle Inspection Sheet of

Inspection Codes:
C = Compliant NC = Not in Compliance NA = Not Applicable

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South Carolina Highway Patrol

Wrecker Rotation Inspection

Class C Truck Inspection Supplement

Class C - Make: KW Model: T-800 Year: 2003 License Plate: SM23780 VIN: 1XKDD49X13J389960

Tow Capability- vehicles weighting in excess of 17,000 pounds	C	NC	Inspector's Remarks
Does truck have minimum gross vehicle weight (GVWR) of not less than 46,000 pounds?	☒	☐	
Does truck have tandem axles or cab to axle length of not less than 102 inches?	☒	☐	
Does truck have a single or double boom rated capacity of not less than 50,000 pounds?	☒	☐	
Is truck equipped with a single winch with a rated capacity of 50,000 pounds or an individual power winch with a rated capacity of not less than 25,000 pounds and a total rating with both winches of 50,000 pounds?	☒	☐	
Is truck equipped with a manufactured wheel lift with retracting lifting capacity of not less than 12,000 pounds, with safety chains?	☒	☐	
Is truck equipped with 150 feet of 5/8 cable or larger, plus 50 feet of 5/8 drop cable?	☒	☐	
Does truck have airbrakes constructed so as to lock wheels automatically upon failure?	☒	☐	
Does truck have light and airbrake hookups?	☒	☐	
Did truck pass State Transport Police Inspection? (attach copy of STP Inspection)	☒	☐	

Safety Equipment:

Requirement:	C	NC	Inspector's Remarks
Is truck equipped with a fire extinguisher?	☒	☐	
Is truck equipped with advance warning devices?	☒	☐	
Is truck equipped with reflective traffic safety vest(s) for worker(s)?	☒	☐	
Is truck equipped with a flashlight?	☒	☐	
Is truck equipped with amber flashing lights visible at all times in all directions for 500 feet?	☒	☐	
Is truck in safe condition and in compliance with state law? (e.g., tires, lights, horn, etc.)	☒	☐	
Is truck in good mechanical condition to handle any towing situation of this class?	☒	☐	
	☐	☐	

General Equipment and Required Items:

Requirement:	C	NC	Inspector's Remarks
Is truck properly registered and meets state law licensing requirements?	☒	☐	
Does truck have a towing log which accurately reflects all towing at the request of SCDPS?	☒	☐	
Is truck equipped with a broom?	☒	☐	
Is truck equipped with a shovel?	☒	☐	
Is truck equipped with a garbage can or other similar container for holding debris?	☒	☐	
Is truck equipped with a sufficient supply of commercial absorbent?	☒	☐	
Is a copy of approved fees kept in the truck and available for presentation upon request?	☒	☐	
Does truck have signs on driver/passenger doors meeting requirements of the regulations?	☒	☐	
Is truck registered in a name other than the service? Is that name on the doors?	☒	☐	
Are the sign letters plainly visible and in a contrasting color to that of the truck?	☒	☐	

Total number of wrecker for this business: 13 Vehicle Inspection Sheet of

Inspection Codes:

C = Compliant NC = Not in Compliance NA = Not Applicable

000891

Form SCHP-A-007 revised July 2014

27

South Carolina Department of Public Safety

S.C. Highway Patrol

South Carolina Highway Patrol
2016 Wrecker Rotation Fee Schedule

In accordance with Section 38-600 of the South Carolina Code of State Regulations, the Department of Public Safety publishes a yearly Fee Schedule outlining the maximum allowable fees for each class of wrecker on the SCHP Wrecker Rotation List. The reasonableness of fees on the Fee Schedule is determined by the Highway Patrol on a comparative basis. The fees permitted for calendar year 2016 are listed below:

2016 MAXIMUM ALLOWABLE FEES FOR ROTATION LIST CALLS

CLASS	STANDARD TOW	SPECIAL OPERATIONS	STORAGE
A	$204.00 flat rate	$118.00 per hour	$30.00 per day
B	$279.00 flat rate	$174.00 per hour	$39.00 per day
C	$436.00 per hour	* no fee will be set	$53.00 per day

Standard Tow: A standard tow is defined as responding to the scene, hooking up the vehicle, performing a general clean up if the call involves responding to a collision scene and providing responsible assistance to the vehicle occupants. In the absence of special operations as defined below, the maximum fee for a Class A or B tow is the flat rate listed above. Fees for Class C tows are billed at an hourly rate.

Special Operations: Special operations are operations involving the process of uprighting an overturned vehicle or returning a vehicle to a normal position on the roadway which requires the use of auxiliary equipment due to the size or location of the vehicle and/or the recovery of a load which has spilled, or the off-loading and reloading of a load from an overturned vehicle performed to right the vehicle. A wrecker service must receive confirmation on-scene at the time of the tow from the investigating Trooper or an SCHP supervisor that special operations are required to perform the tow in order to recover such fees.

* Although no Special Operations fee is set for Class C tows, a wrecker service may recover the actual cost of rented/subcontracted equipment or labor necessary to accomplish the job. Proof of these actual costs in the form of an itemized invoice or receipt from the third party providing such equipment or labor must accompany the tow bill.

If services beyond those for which the wrecker was dispatched are performed (e.g., hazardous waste cleanup; transportation of vehicle, cargo, or occupants(s) to an agreed upon location other than the one required by the Regulation), those services must be billed on a separate invoice.

Storage: Fees begin 12 hours after a vehicle is secured on the wrecker service premises and terminate when the vehicle owner or owner's designee offers to pick up the vehicle and pay the legitimate accrued charges.

A COPY OF THIS FEE SCHEDULE SHALL BE KEPT IN EACH WRECKER AT ALL TIMES AND MUST BE PRESENTED UPON REQUEST TO ANY PERSON FOR WHOM TOW SERVICES ARE PROVIDED, HIS OR HER AGENT, OR ANY DEPARTMENT OF PUBLIC SAFETY EMPLOYEE. ANY COMPLAINTS MUST BE IN WRITING AND FORWARDED TO THE SCHP TROOP COMMANDER.

NOTE: This fee schedule lists the maximum fee that may be charged for each class of wrecker. A lesser fee may be charged at any time in the wrecker service's discretion.

Courtesy - Efficiency - Service

POST OFFICE BOX 1993, 10311 WILSON BLVD., BLYTHEWOOD, SOUTH CAROLINA 29016

000892

South Carolina Highway Patrol

Wrecker Rotation Inspection

Approved Fees:

Class	Standard Towing	Special Operations	Storage (per day)
☒ A	$ 204.00	$ 118.00	$ 50.00
☒ B	$ 279.00	$ 174.00	$ 37.00
☒ C	$ 436.00	$ NONE / NO FEE SET	$ 53.00

Inspector's Comments:

After my inspection, I find this service to be:

☒ **Approved** – Business is in compliance with Wrecker Regulations and is being **recommended** for the rotation list.

☐ **Not Approved** – Business is not in compliance with Wrecker Regulations and is **NOT recommended** for the rotation list. Service was notified in writing as to what deficiencies were identified.

Inspector's Signature: _____ Date: 11/25/15

Wrecker Owner's Acknowledgment of Receipt and Compliance if approved:

I do hereby affirm that I have a copy of South Carolina Code of Regulations 38-600 governing rotation list wreckers. I am familiar with its contents and do hereby agree to fully comply with it in order to remain on the rotation list. I understand that any violation of the Wrecker Regulations may result in disciplinary action pursuant to S.C. Code of Regulations 38-600(D) and SCDPS Policy 200.19 Wrecker Rotation Disciplinary Policy. I further agree that if I relocate or change equipment, insurance carriers, telephone numbers or employees, or for any reason become unavailable for service for an extended period of time, I will notify the appropriate Troop Commander in writing. The information I have furnished is true and correct to the best of my knowledge. My business has been inspected and approved this 25th day of NOVEMBER, 20 15.

Print Name Pamela Beltran Signature: Pamela Beltran

Inspection Codes:

C = Compliant NC = Not in Compliance NA = Not Applicable

000893

Form SCHP-A-007 revised July 2014

South Carolina Department of Public Safety

S.C. Highway Patrol

On behalf of the wrecker service named below, I acknowledge that I have received and agree to be bound by the South Carolina Highway Patrol 2016 Wrecker Rotation Fee Schedule and the Department of Public Safety's Wrecker Rotation Disciplinary Policy. Further, I certify that I am authorized to bind the wrecker service named below to the terms of this Fee Schedule and the Department of Public Safety's Wrecker Rotation Disciplinary Policy.

Pamela L Beltra — Pamela L Beltra — 11/25/15

Owner/Representative Name (Printed) | Owner/Representative Signature | Date

Wagners Automotive Center Inc

Name of Wrecker Service

DRIVER/VEHICLE EXAMINATION REPORT

Aspen 2.14.1.1

South Carolina State Transport Police
P. O. Box 1993
http://www.scdps.gov — http://fmcsa.dot.g
Blythewood, SC 29016
Phone: (803)896-5500 Fax: (803)896-5526

Report Number: SCW188004201
Inspection Date: 11/10/2015
Start: 9:01:00 AM ET **End:** 9:31:05 AM ET
Inspection Level: I - Full
HM Inspection Type: None

WAYNE AUTOMOTIVE CENTER INC
1997 RICHLAND AVE EAST
AIKEN, SC 29801
USDOT#: 00432323 **Phone#:** (803)644-9045
MC/MX#: 538513 **Fax#:**
State#:

Driver: TOMASKO, DANIEL J
License#: **State:** SC
Date of Birth:
CoDriver:
License#: **State:**
Date of Birth:

Location: US 1 AIKEN COUNTY **MilePost:** **Shipper:**
Highway: **Origin:** AIKEN, SC **Bill of Lading:**
County: AIKEN, SC **Destination:** AIKEN, SC **Cargo:** X - EMPTY

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	TR	FRHT	1995	SC	SM23122	HD-1	1FUYDEDBXSP780933	52,000	20709812		

BRAKE ADJUSTMENTS

Axle #	1	2	3
Right	[redacted]	1 7/8	1 3/4
Left	1 1/2	2	1 7/8
Chamber	C-20	C-30	C-30

VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
393.47E	393.47(e)	1	N		N	N	Clamp type brake out-of-adjustment (See Chart)
393.53B	393.53(b)	1	N		N	N	CMV manufactured after 10/19/94 has an automatic airbrake adjustment system that fails to compensate for wear

HazMat: No HM Transported **Placard:** No **Cargo Tank:**

Special Checks: No Data for Special Checks.

State Information:
CDL Check: Y; Portable Scales Utilized: N; Operating Authority Verified: Y; Financ Responsibility Verified: Y; Fed OOS Verified: Y; Driver Race: W; Driver Sex: M; Driver Mailing Address: 551 OAK RIDGE CLUB ROAD; Driver City, State, Zip: WINDSOR, SC 29856;

Failure to return this report with the required certification can result in penalties up to $1,000 per day for each day the violation continues, up to a total of $10,000.

Signature Of Repairer X: _____ Facility: _____ Date: _____

Advisory: This vehicle has been identified as having brake adjustment violations. 49CFR Section 393.53 requires that a self-adjusting brake system be equipped on this vehicle. A qualified service technician needs to determine why the defective brake has excessive stroke and make the appropriate repairs. Simply re-adjusting a self-adjusting brake adjustor, or replacing it, does not guarantee that the problem is corrected. The problem may exist in the foundation brake system. By certifying this inspection report you have indicated that this vehicle now has a properly functioning self-adjusting brake adjustment system.

CARRIER CERTIFICATION: The undersigned certifies that all violations on this report have been corrected and action has been taken to assure compliance with the Federal Motor Carrier Safety and Hazardous Material Regulations insofar as they are applicable to motor carriers and drivers. This certification MUST BE SIGNED by the Motor Carrier and RETURNED WITHIN 15 days to the: South Carolina State Transport Police, P.O. Box 1993, Blythewood, South Carolina 29016.

Signature Of Motor Carrier X: _____ Title: _____ Date: _____

Report Prepared By: GB WILES Badge #: 188 Copy Received By: DANIEL TOMASKO X _____

00432323 SC SCW188004201

DRIVER/VEHICLE EXAMINATION REPORT

Aspen 2.14.1.1

South Carolina State Transport Police
P. O. Box 1993
http://www.scdps.gov — http://fmcsa.dot.g
Blythewood, SC 29016
Phone: (803)896-5500 Fax: (803)896-5526

Report Number: SCW188004202
Inspection Date: 11/10/2015
Start: 9:32:00 AM ET **End:** 10:03:00 AM ET
Inspection Level: I - Full
HM Inspection Type: None

WAYNE AUTOMOTIVE CENTER INC
1997 RICHLAND AVE EAST
AIKEN, SC 29801

USDOT#: 00432323 **Phone#:** (803)644-9045
MC/MX#: 538513 **Fax#:**
State#:

Driver: COURCY KENNETH W
License#: **State:** SC
Date of Birth:
CoDriver:
License#: **State:**
Date of Birth:

Location: US 1 AIKEN COUNTY **MilePost:** **Shipper:**
Highway: **Origin:** AIKEN, SC **Bill of Lading:**
County: AIKEN, SC **Destination:** AIKEN, SC **Cargo:** X - EMPTY

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	TR	PTRB	2007	SC	SM21560	HD-450	1NPFL4TX67N644450	83,000			

BRAKE ADJUSTMENTS

Axle #	1	2	3
Right	1	1 3/8	1 1/2
Left	1	1 1/4	1 5/8
Chamber	L-24	C-30	C-30

VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.3A1B	396.3A1B	1	N		N	N	Brakes (general) Explain: Axle 3 right side brake chamber has a ruptured diaphragm causing audible air leak

HazMat: No HM Transported. **Placard:** No **Cargo Tank:**

Special Checks: No Data for Special Checks.

State Information:
CDL Check: Y; Portable Scales Utilized: N; Operating Authority Verified: Y; Financ Responsibility Verified: Y; Fed OOS Verified: Y; Driver Rece: W; Driver Sex: M; Driver Mailing Address: 103 HILLSIDE DRIVE; Driver City, State, Zip: NORTH AUGUSTA, SC 29841;

Failure to return this report with the required certification can result in penalties up to $1,000 per day for each day the violation continues, up to a total of $10,000.

Signature Of Repairer X: _____ Facility: _____ Date: _____

CARRIER CERTIFICATION: The undersigned certifies that all violations on this report have been corrected and action has been taken to assure compliance with the Federal Motor Carrier Safety and Hazardous Material Regulations insofar as they are applicable to motor carriers and drivers. This certification MUST BE SIGNED by the Motor Carrier and RETURNED WITHIN 15 days to the: South Carolina State Transport Police, P.O. Box 1993, Blythewood, South Carolina 29016.

Signature Of Motor Carrier X: _____ Title: _____ Date: _____

Report Prepared By: GB WILES
Badge #: 188
Copy Received By: KENNETH COURCY
x _____

00432323 SC SCW188004202

32

000896

DRIVER/VEHICLE EXAMINATION REPORT

Aspen 2.14.1.1

South Carolina State Transport Police
P. O. Box 1993
http://www.scdps.gov — http://fmcsa.dot.g
Blythewood, SC 29016
Phone: (803)896-5500 Fax: (803)896-5526

Report Number: SCW188004200
Inspection Date: 11/10/2015
Start: 8:30:00 AM ET **End:** 9:00:00 AM ET
Inspection Level: I - Full
HM Inspection Type: None

WAYNE AUTOMOTIVE CENTER INC
1897 RICHLAND AVE EAST
AIKEN, SC 29801
USDOT#: 00432323 **Phone#:** (803)644-9045
MC/MX#: 538513 **Fax#:**
State#:

Driver: ROLLINS, BRYAN P **State:** GA
License#:
Date of Birth:
CoDriver: **State:**
License#:
Date of Birth:

Location: US 1 AIKEN COUNTY **MilePost:** **Shipper:**
Highway: **Origin:** AIKEN, SC **Bill of Lading:**
County: AIKEN, SC **Destination:** AIKEN, SC **Cargo:** X - EMPTY

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	CVSA Issued #	OOS Sticker
1	TR	KW	2003	SC	SM23780	HD-5	1XKDD49X13J389980	52,000	20702980	22180367	

BRAKE ADJUSTMENTS

Axle #	1	2	3
Right	1	1 1/4	1
Left	1	1 1/2	1 1/8
Chamber	C-20	C-30	C-30

VIOLATIONS: No Violations Were Discovered.

HazMat: No HM Transported. **Placard:** No **Cargo Tank:**

Special Checks: No Data for Special Checks.

State Information:
CDL Check: Y; Portable Scales Utilized: N; Operating Authority Verified: Y; Financ Responsibility Verified: Y; Fed OOS Verified: Y; Driver Race: W; Driver Sex: M; Driver Mailing Address: 424 BEVERLY ROAD APT C; Driver City, State, Zip: MARTINEZ, GA 30907;

Failure to return this report with the required certification can result in penalties up to $1,000 per day for each day the violation continues, up to a total of $10,000.

Signature Of Repairer X:_____ Facility:_____ Date:_____

CARRIER CERTIFICATION: The undersigned certifies that all violations on this report have been corrected and action has been taken to assure compliance with the Federal Motor Carrier Safety and Hazardous Material Regulations insofar as they are applicable to motor carriers and drivers. This certification MUST BE SIGNED by the Motor Carrier and RETURNED WITHIN 15 days to the: South Carolina State Transport Police, P.O. Box 1993, Blythewood, South Carolina 29016.

Signature Of Motor Carrier X:_____ Title:_____ Date:_____

Report Prepared By: GB WILES
X GB Wiles

Badge #: 188

Copy Received By: BRYAN ROLLINS
X Bryan Rollins

00432323 SC SCW188004200

WAYNAUT-09 JWU

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 9/24/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
YouZoom Insurance Services, Inc
6900 College Blvd
Ste 1000
Overland Park, KS 66211

CONTACT NAME:
PHONE (A/C, No, Ext): (888) 240-8803 FAX (A/C, No): (877) 235-3393
E-MAIL ADDRESS: youzoom.servicecenter@arrowheadgrp.com

INSURER(S) AFFORDING COVERAGE — NAIC #
INSURER A: Universal Underwriters Insurance Company 41181
INSURER B:
INSURER C:
INSURER D:
INSURER E:
INSURER F:

INSURED
WAYNE'S AUTOMOTIVE CENTER, INC.
DBA WAYNE'S AUTOMOTIVE & TOWING CENTER
1997 RICHLAND AVE E
AIKEN, SC 29801

COVERAGES — CERTIFICATE NUMBER: — REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR			330802	09/19/2015	09/19/2016	DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER						GENERAL AGGREGATE	$
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
A	ANY AUTO			330802	09/19/2015	09/19/2016	BODILY INJURY (Per person)	$
	ALL OWNED AUTOS X SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS X NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	$ 2,000,000
A	X EXCESS LIAB CLAIMS-MADE			330802	09/19/2015	09/19/2016	AGGREGATE	$
	DED X RETENTION $ 0						Prod/Comp Agg	$ 6,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N N / A						E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Garage Liability*			330802	09/19/2015	09/19/2016	Each Acc	1,000,000
A	Cust Auto-Dir Prim			330802	09/19/2015	09/19/2016	Limit**	500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
*Products – Completed Operations Aggregate of $3,000,000 applies to the Garage Liability.
** Customer Auto Includes On-Hook Coverage.

Covered location included: 881 EDGEFIELD RD NORTH AUGUSTA, SC 29841 (LOC 03)

CERTIFICATE HOLDER

South Carolina Hwy Patrol
Blythewood, SC

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

000898

AUTHORIZED REPRESENTATIVE
YouZoom Insurance Services, Inc.

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SCHP WRECKER ROTATION APPLICATION

Application must be completed and submitted to Troop HQ no later than October 1st

OCT 0 9 AM

SECTION 1 — **APPLICANT INFORMATION**

Name of Business: Waynes Automotive Center INC

Is Business an entity on file with the S.C. Secretary of State? ☑ YES ☐ NO (*if yes, see Section 7*)

Owner's Name: Walter Jeffery Corbett

Business Phone Number: 803-644-9045

Physical Address of Business: 1997 Richland Ave E

County: Choose County

Zone: 1

City: Aiken

State: SC

Zip Code: 29801

Troop # 7

E-mail Address: towing@waynes-towing.com

Fax Number: 803-644-4796

Wrecker Class: ☒ A ☒ B ☒ C (*check all that apply*)

Total number of wreckers: 14

Credit cards accepted? ☒ Yes ☐ No

Is a SLED Criminal Records check (SLED Catch) attached for all owners and employees? ☐ YES ☐ NO

Is a SLED Sex Offender Registry check attached for all owners and employees? ☐ YES ☐ NO

SECTION 2 — **DRIVER INFORMATION (FULL LEGAL NAMES MUST BE SUPPLIED)**

Number of Drivers:

SCHP must be notified within 10 days of all new hires and separations from employment.

Driver's Name: William Hicks	Driver's License:	State: SC	Class: A
Driver's Name: Richard Hicks	Driver's License:	State: SC	Class: A
Driver's Name: John T Pittman	Driver's License:	State: GA	Class: C

Please list additional drivers in Section 6. Application must include a Medical Examiner's Certificate for each CDL driver.

SECTION 3 — **INSURANCE COVERAGE INFORMATION**

SOUTH CAROLINA HIGHWAY PATROL TROOP HQ MUST BE NOTIFIED OF ANY CHANGE IN OR LOSS OF COVERAGE

Include Certificate(s) of Insurance with this application

Insurance Company: See Attached Certificate

Agent's Name:

Address:

Phone:

LIABILITY INSURANCE COVERAGE

Policy #

Effective Dates: to

Limits: $

CARGO INSURANCE COVERAGE

Policy #

Effective Dates: to

Limits: $

GARAGE KEEPER'S INSURANCE COVERAGE

Policy #

Effective Dates: to

Limits: $

SECTION 4 — See Attached — **IDENTIFY WRECKERS THAT WILL BE USED ON ROTATION** — See Attached

Make:	Model:	VIN:	Tag:	Class:
Make:	Model:	VIN:	Tag:	Class:
Make:	Model:	VIN:	Tag:	Class:

Each wrecker must be marked with the required signage and utilized only at its assigned business location.

Please list additional wreckers in Section 8.

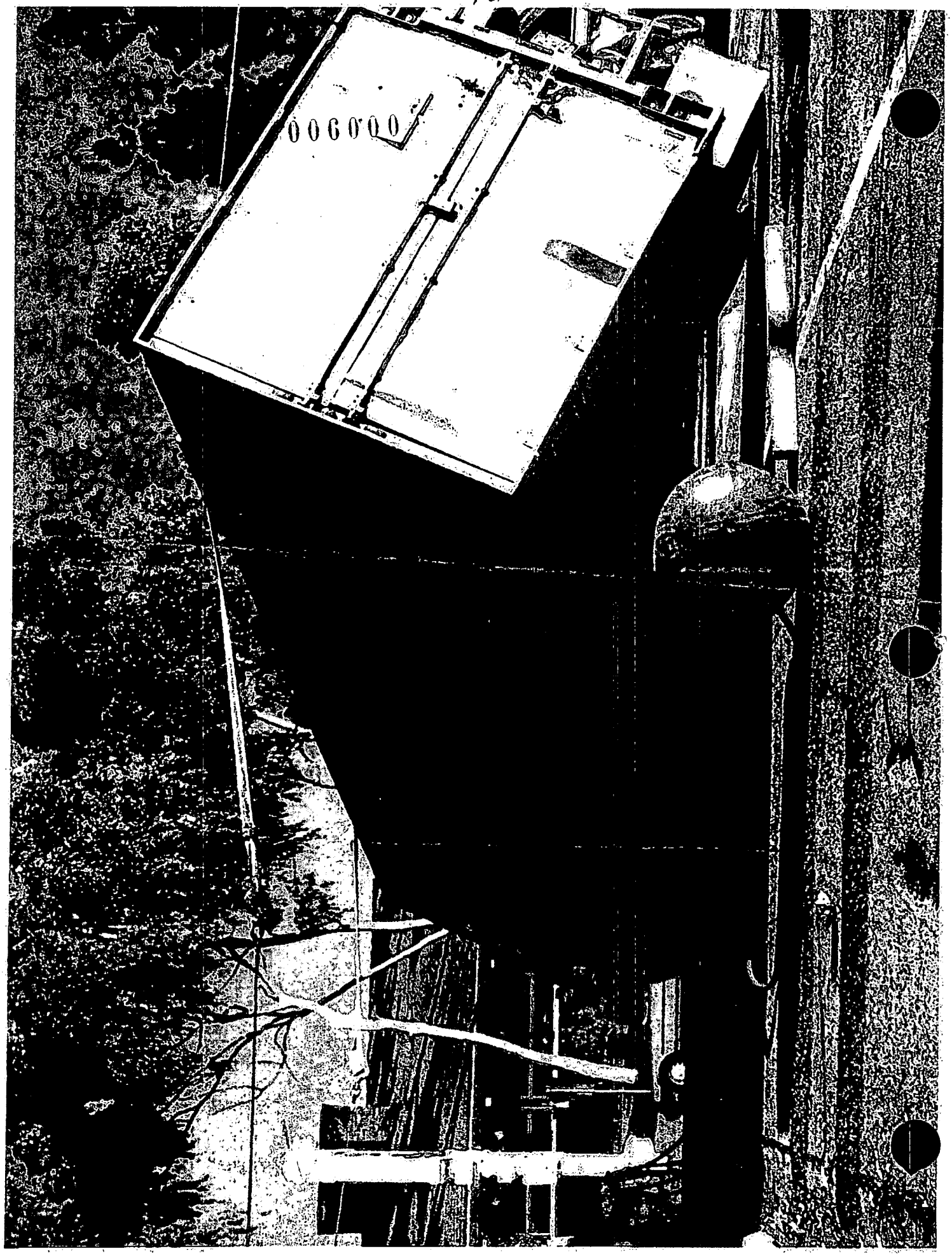
SECTION 5 — **PROPOSED WRECKER FEES**

Class A	Standard Towing $	(flat rate) 450.00	Special Operations $ Not Provided (hourly rate)	Daily Storage $ 49.00 Per unit
Class B	Standard Towing $	(flat rate) 325.00	Special Operations $ Not Provided (hourly rate)	Daily Storage $ 34.00
Class C	Standard Towing $	(hourly rate) 200.00	*Special Operations rate is not applicable for this wrecker class*	Daily Storage $ 29.00

Fees must be approved by the Troop Commander and a copy of the approved Fee Schedule must be kept in each wrecker at all times. Wrecker services performing rotation list calls may not charge fees exceeding the SCHP-approved rates.

Note that approved fees are the maximum amount allowed by SCHP and that wrecker services are free to charge a lesser amount.

000899


006000

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #:	106-004327	**Date of Loss:**	02/09/2016
Customer Claim #:	61A169404	**Adjuster:**	John Habegger
Insured/Owner:	Premier Transportation		

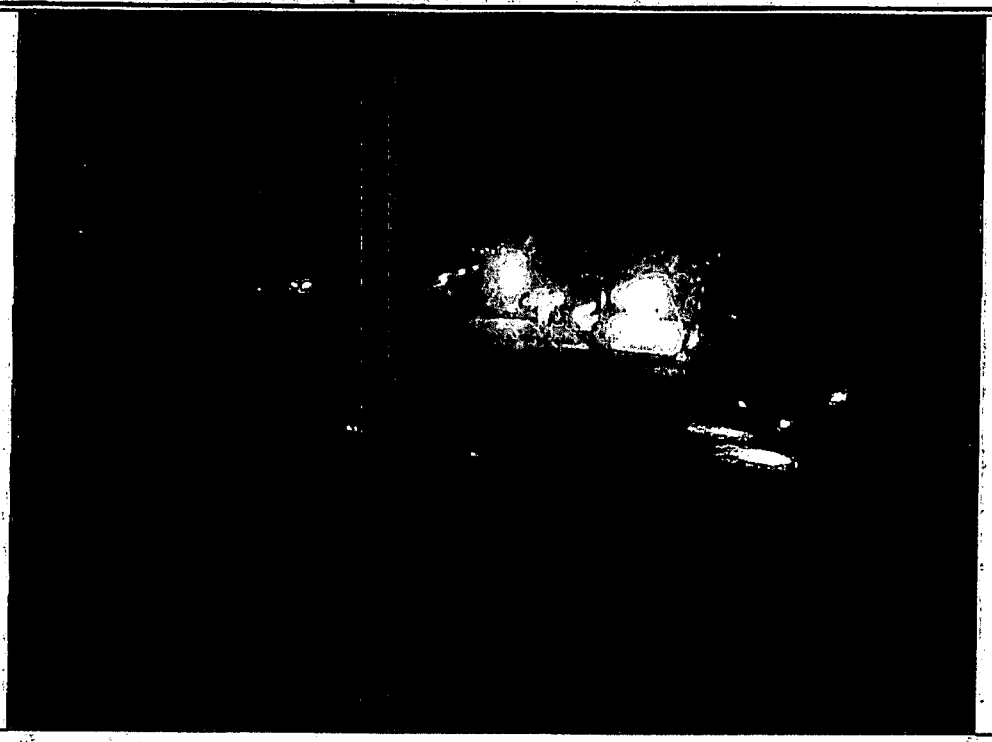


Photo #: 1

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
View of the scene after arrival. Insured Vehicle (IV) is on the right.

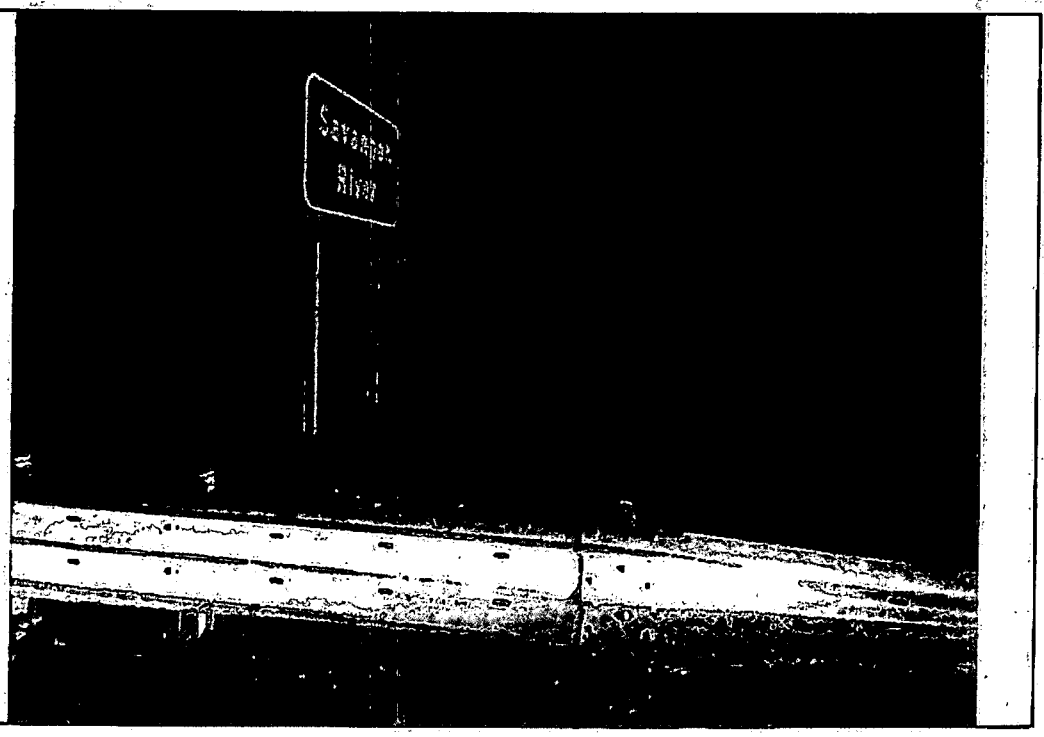


Photo #: 2

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
IV crashed on the Savannah River bridge that runs east and west between the states of South Carolina and Georgia.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

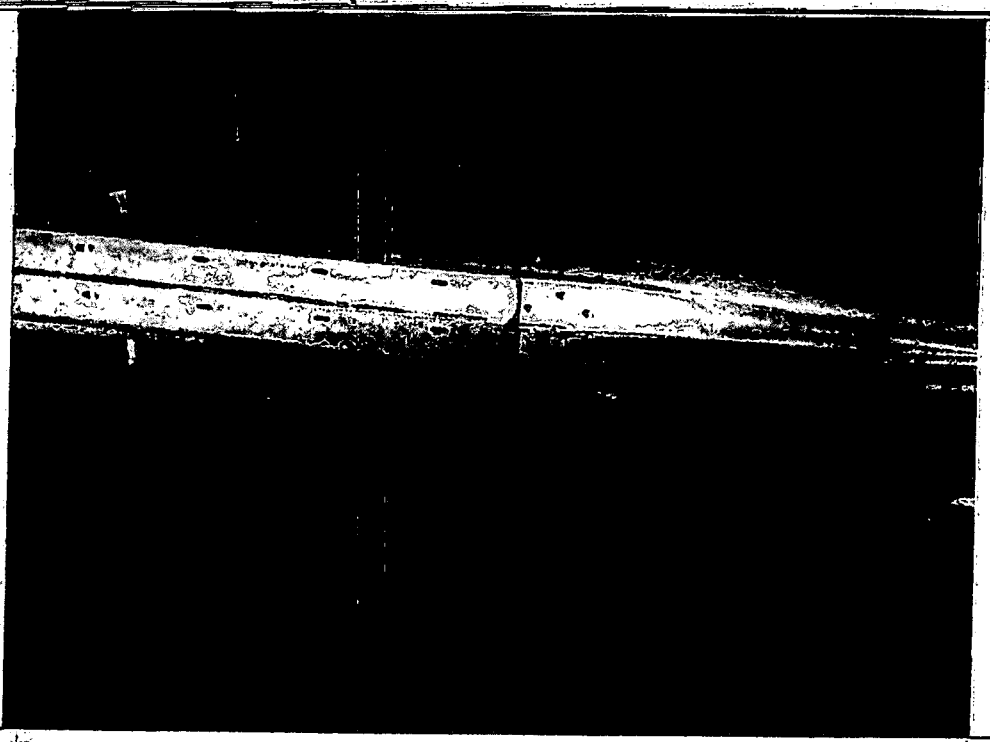


Photo #: 3

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Tire marks were noted at the beginning of the bridge on the right side going east.

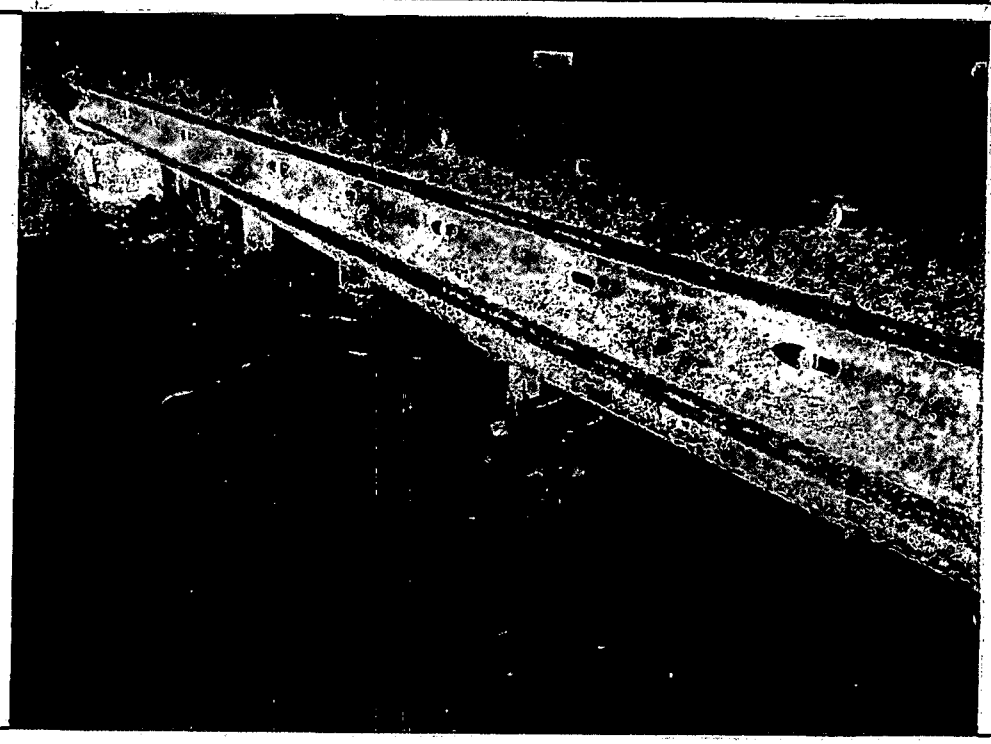


Photo #: 4

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Close-up of the tire marks.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

Photo #: 5

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Concrete damaged in this area.

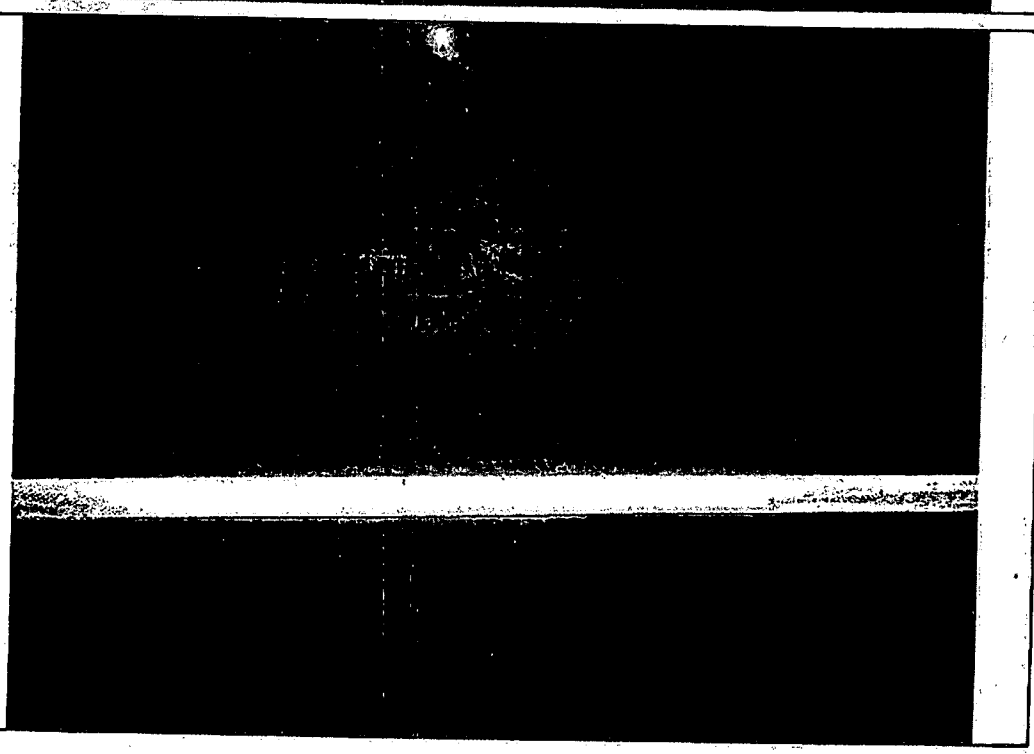


Photo #: 6

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
GDOT was also on-site in this incident. SCDOT was also on site.

Claim Photo

cia CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

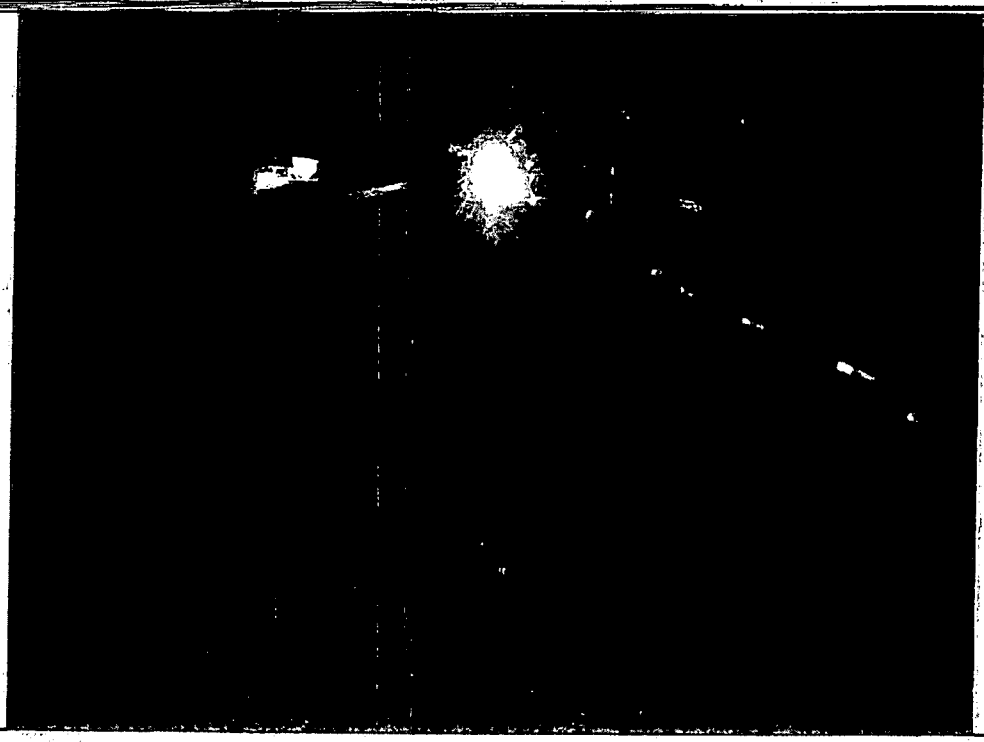


Photo #: 7

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Overview of the bridge looking west.

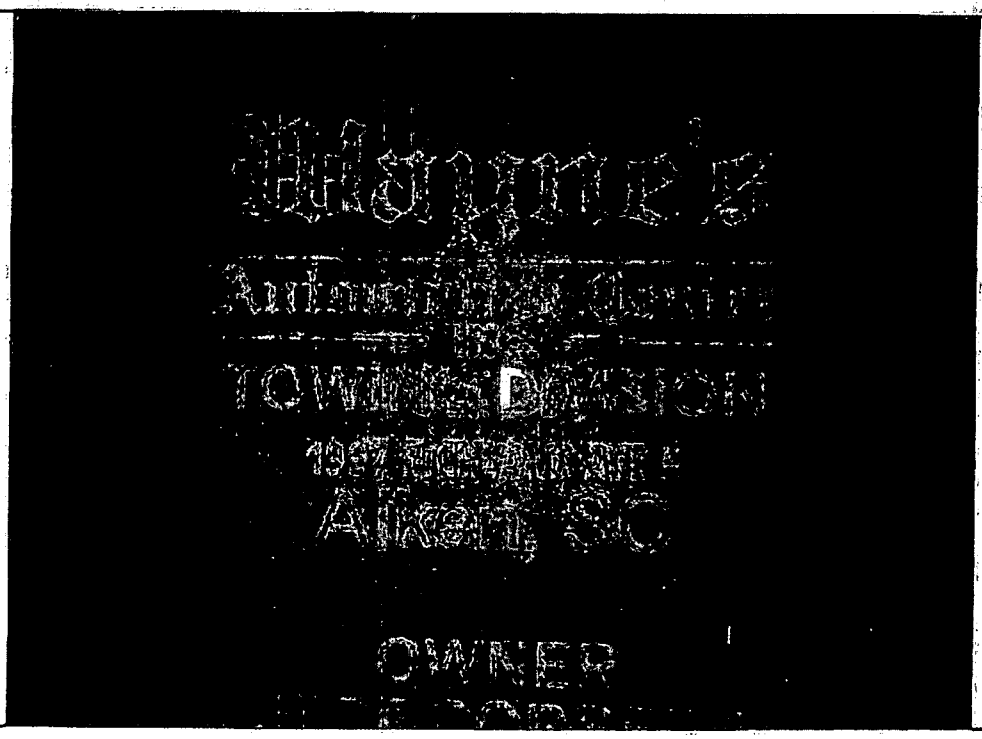


Photo #: 8

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Wayne's was on site and handled the oil spill, the tractor trailer, and the cargo.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

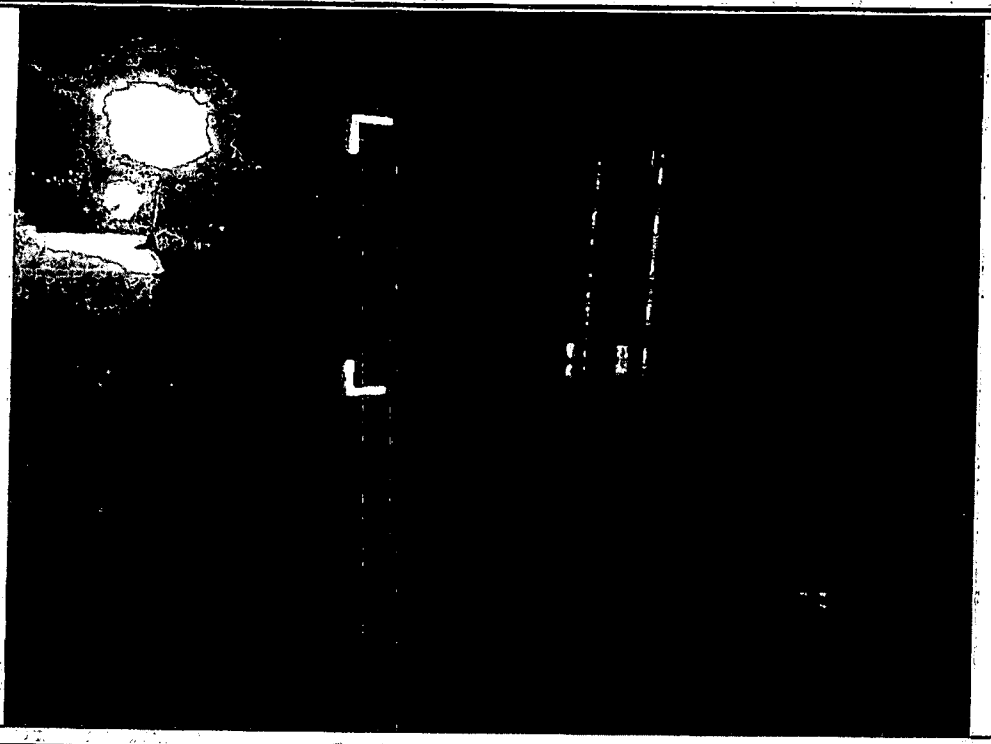


Photo #: 9

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Rear of the IV.

Photo #: 10

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Tag # of the trailer.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

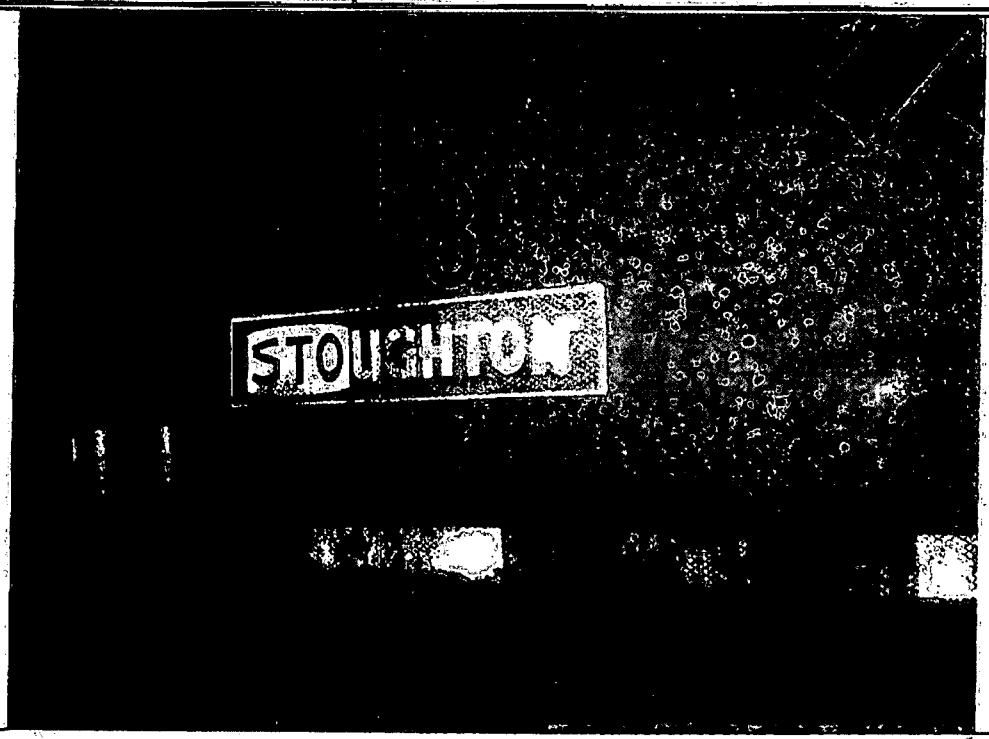


Photo #: 11

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Trailer make and unit number.

Photo #: 12

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Front top damage to the trailer.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

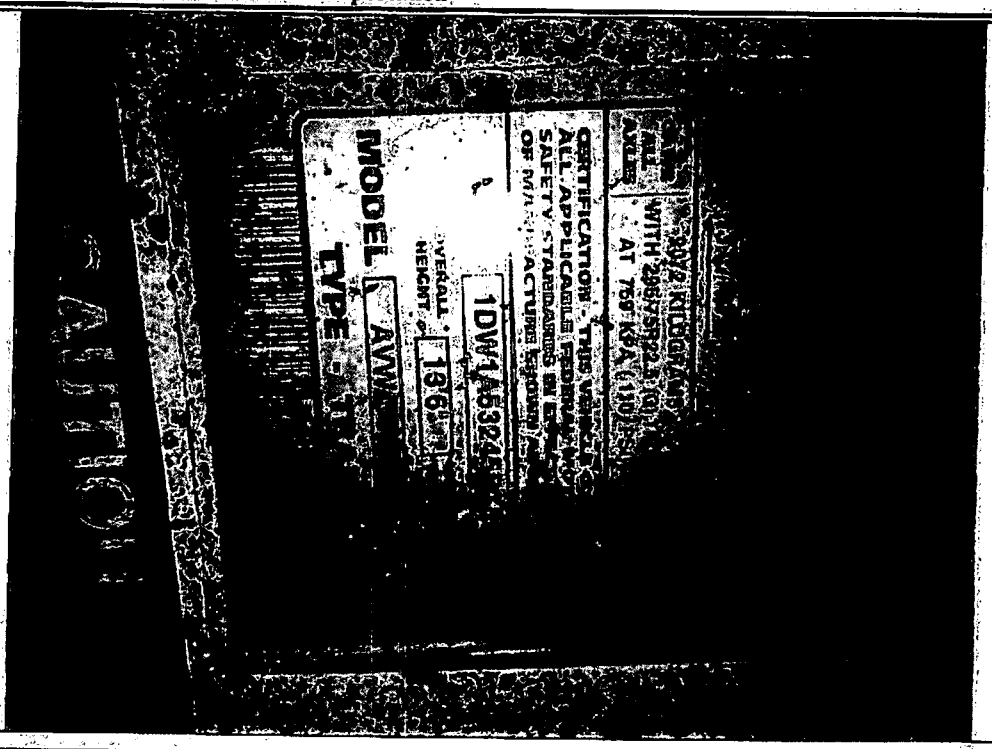


Photo #: 13

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Trailer Vin tag.

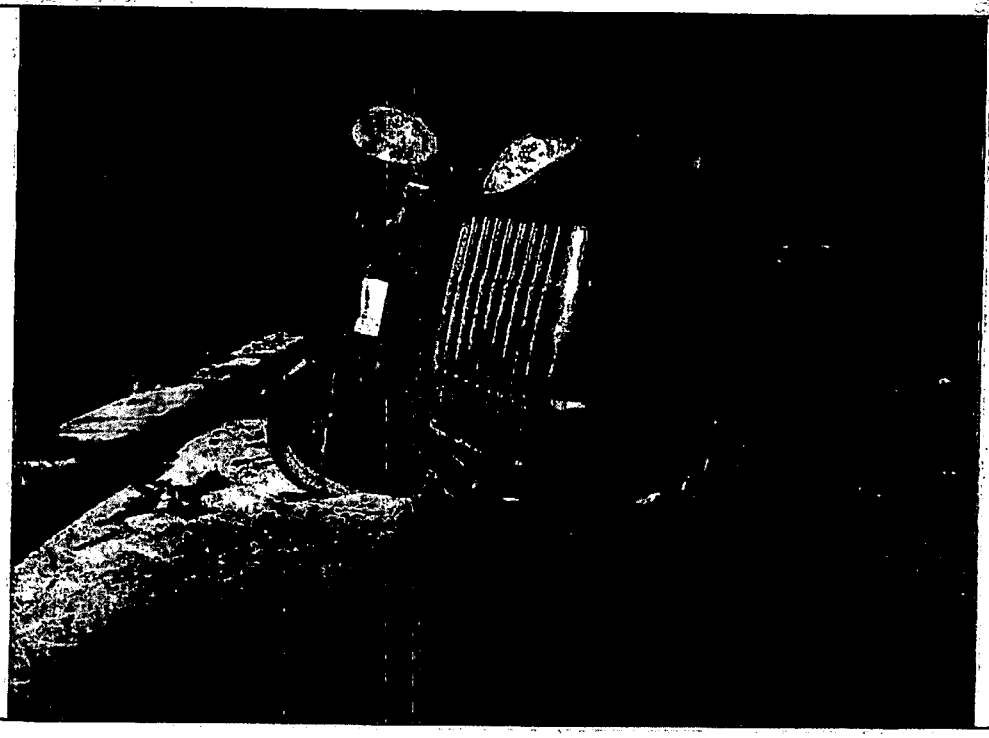


Photo #: 14

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Front of the IV.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

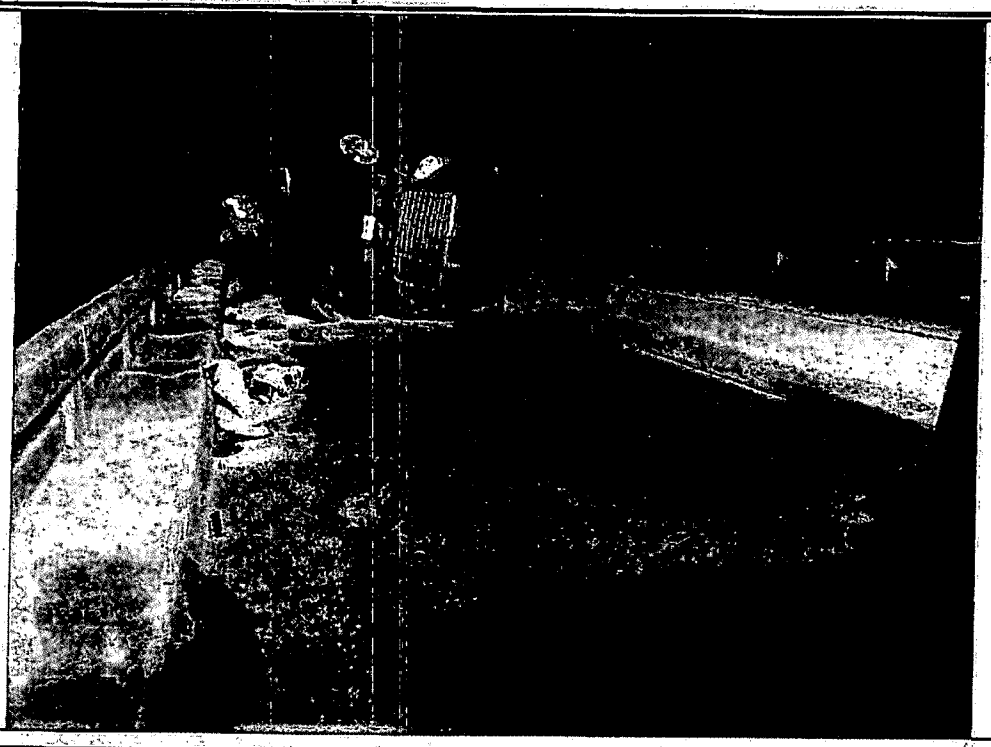


Photo #: 15

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Overview of the front

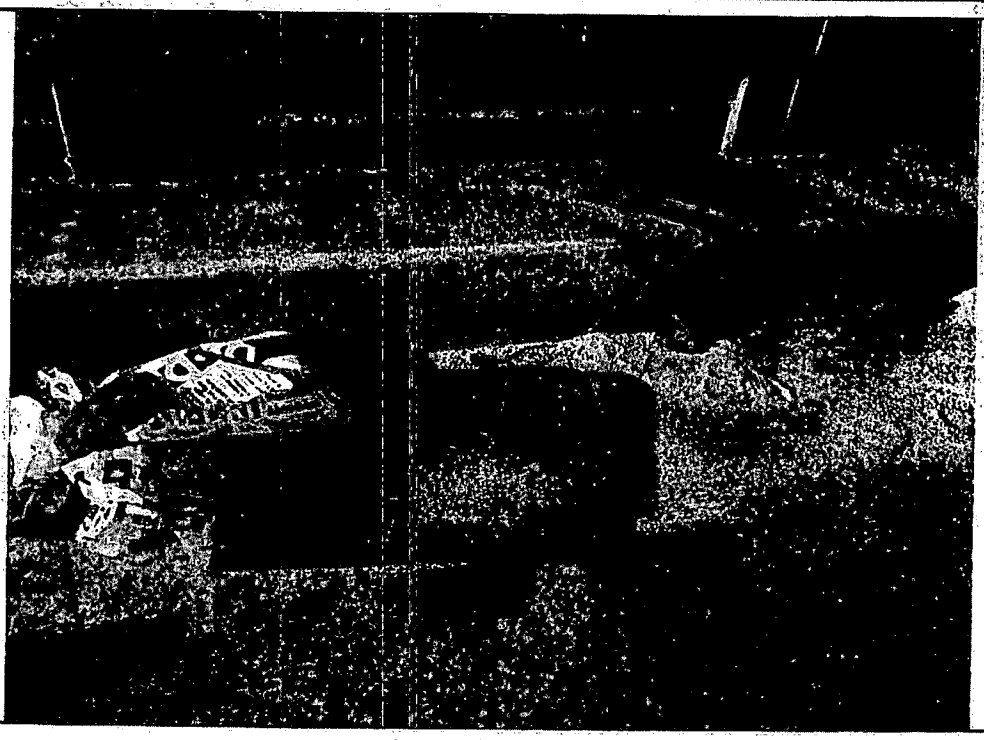


Photo #: 16

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
absorbent used for the oil spill. No contaminate was noted to enter the river.

Claim Photo

CIA
CUSTARD
INSURANCE ADJUSTERS

CIA File #:	106-004327	**Date of Loss:**	02/09/2016
Customer Claim #:	61A169404	**Adjuster:**	John Habegger
Insured/Owner:	Premier Transportation		

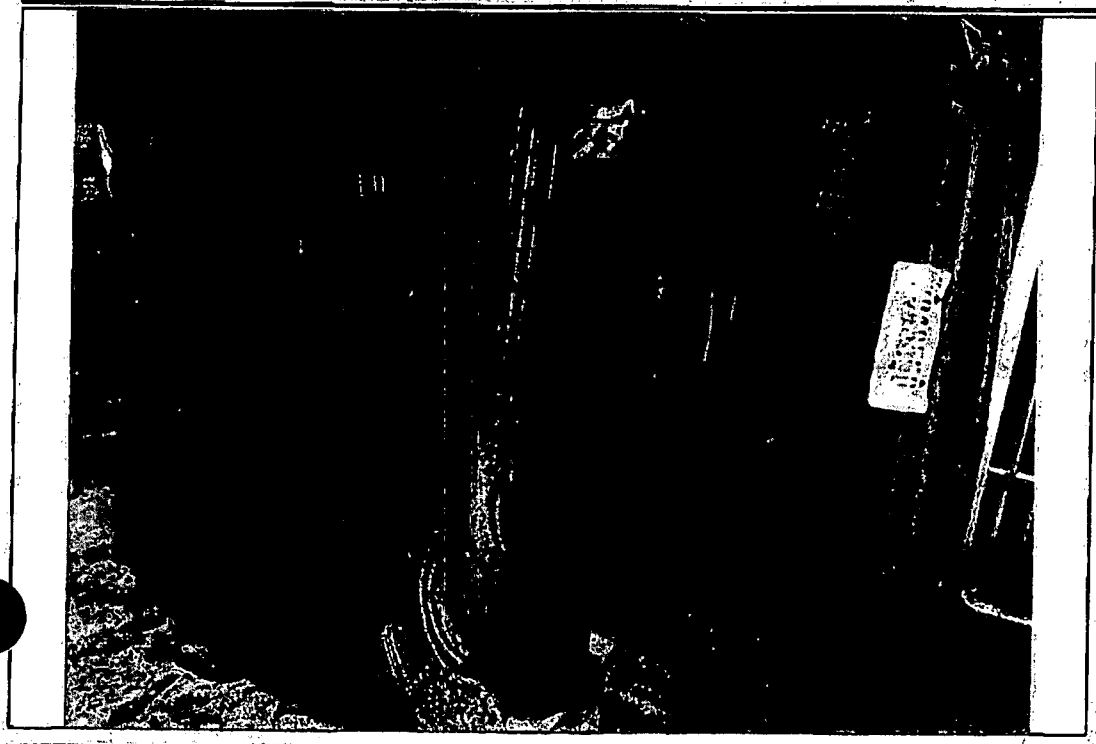


Photo #: 17

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Front of the IV

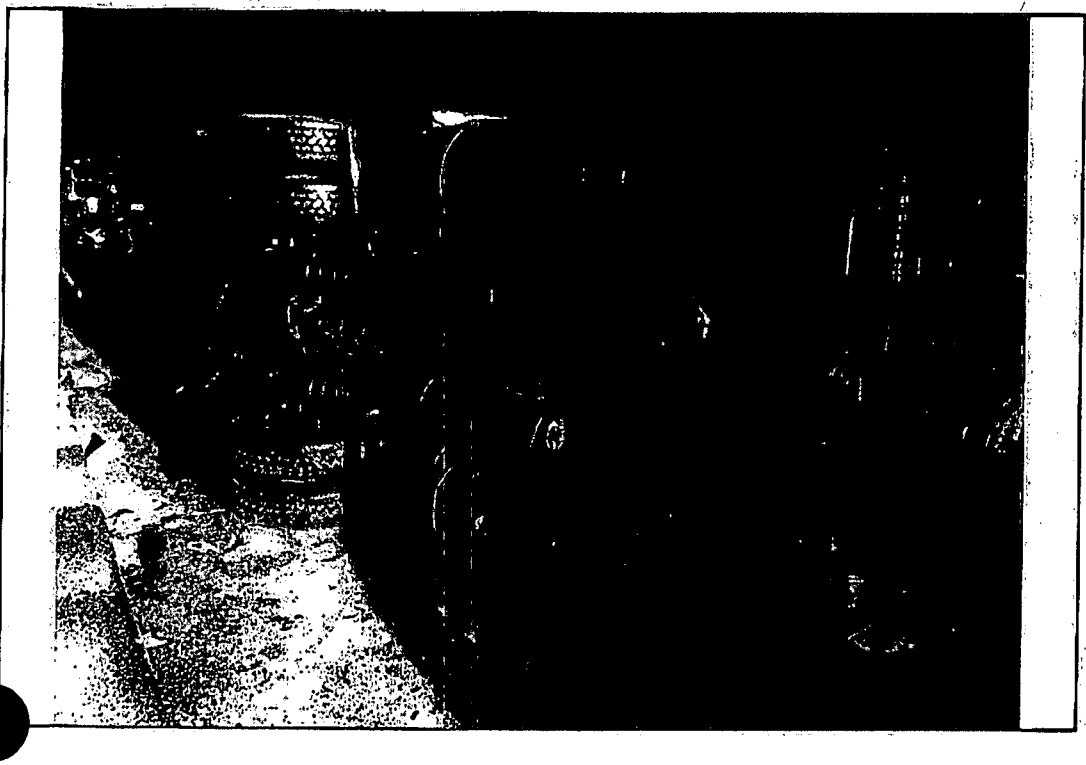


Photo #: 18

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
IV was flipped on its driver's side.

Claim Photo

CIA
CUSTARD
INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

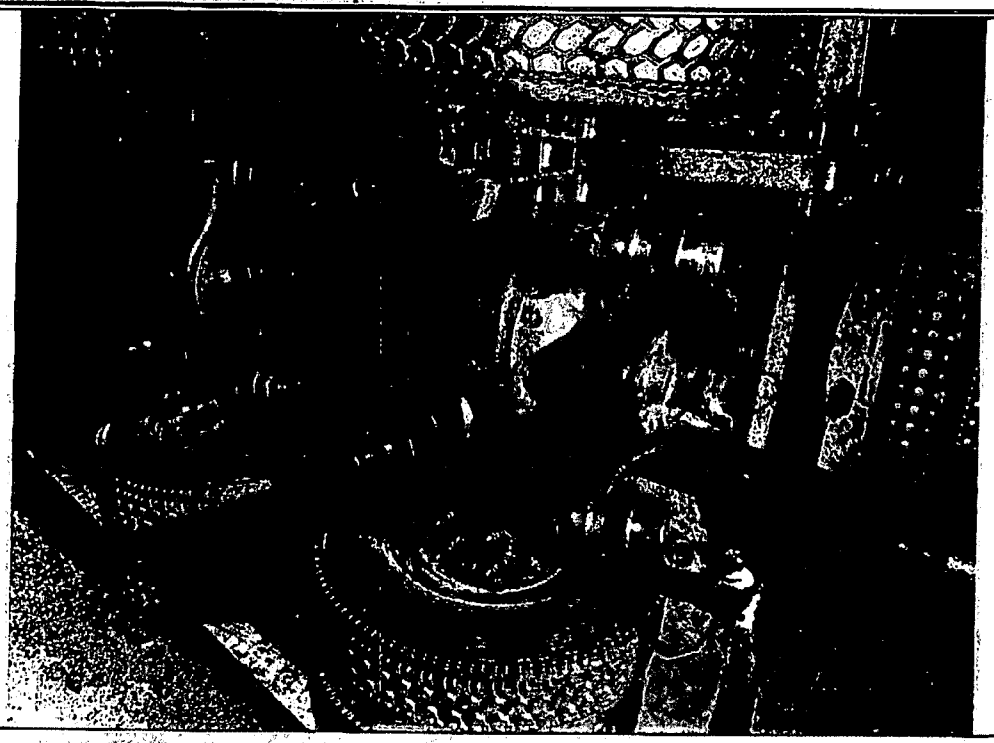


Photo #: 19

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Close-up of the underside.

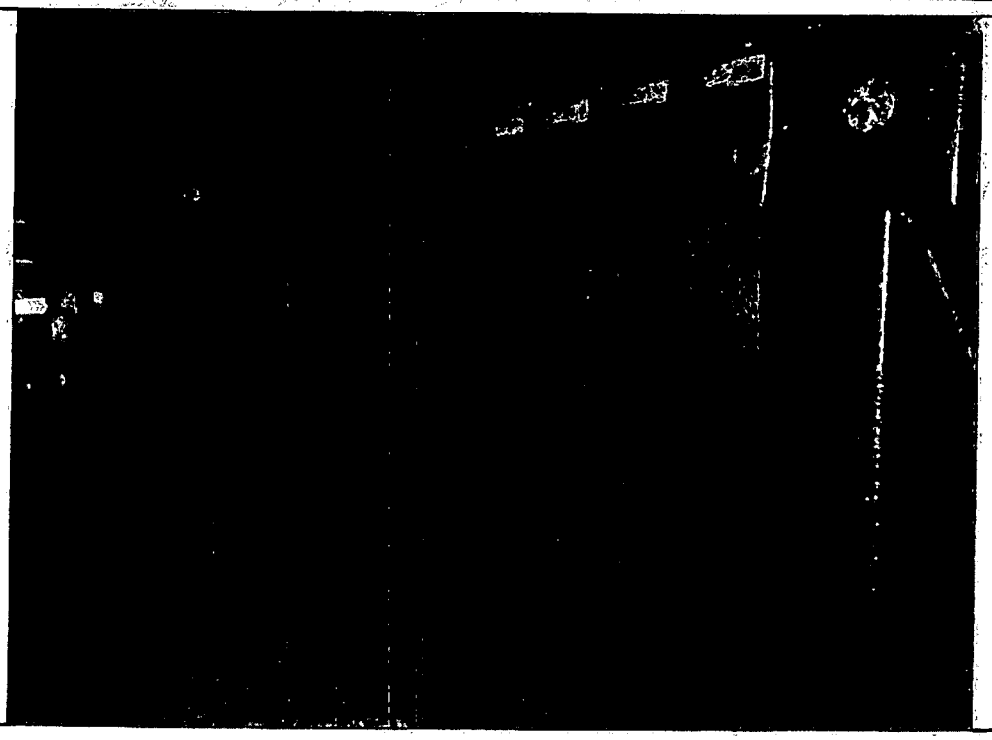


Photo #: 20

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Underside of the trailer.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

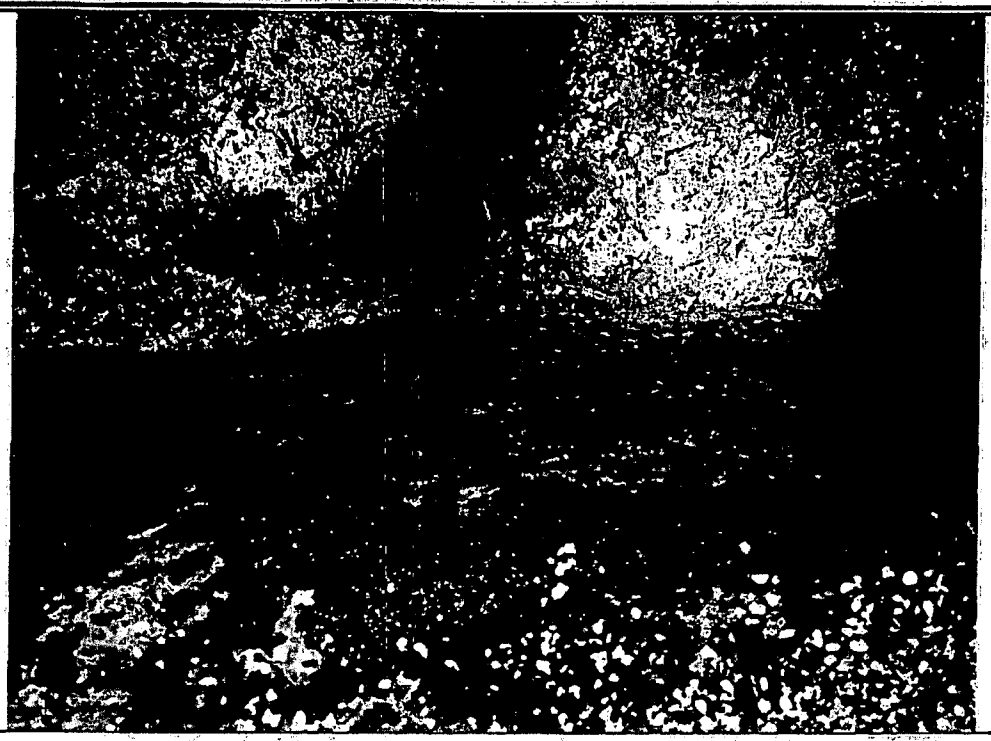


Photo #: 21

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Drains in the Bridge were plugged by Wayne's. The plug was removed for the photo.

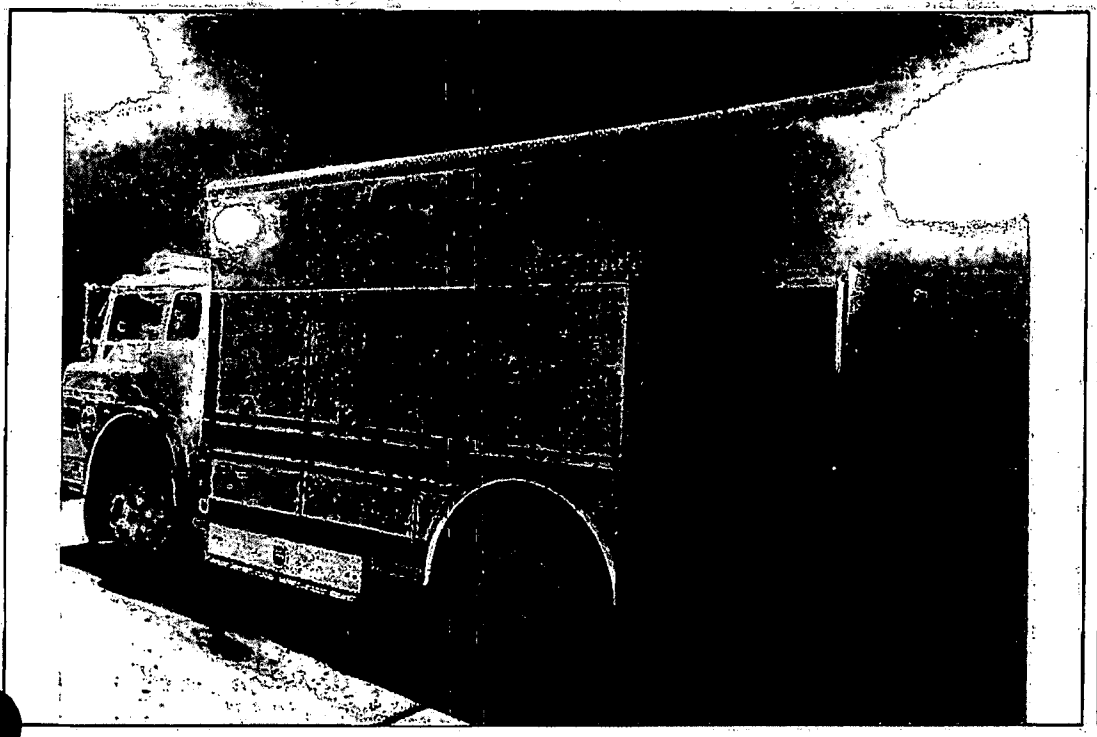


Photo #: 22

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Spill Containment and Incident Management belongs to Wayne's.

Claim Photo

cia CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

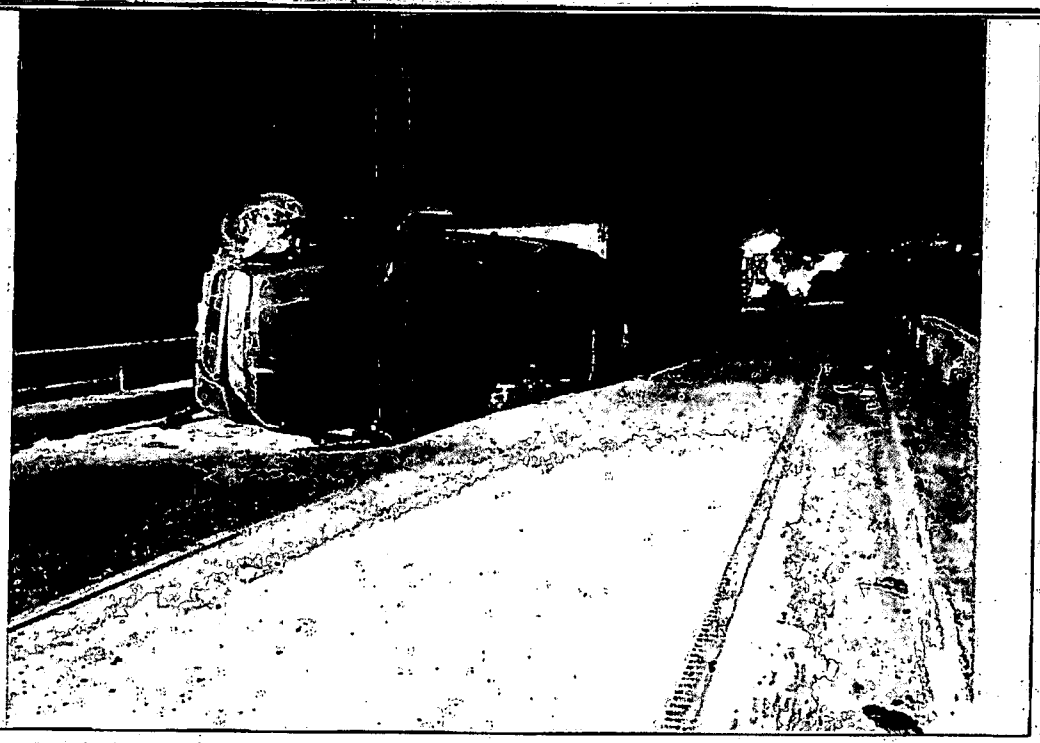


Photo #: 23

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Overview looking east.

Photo #: 24

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Tag number for the IV (tractor).

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

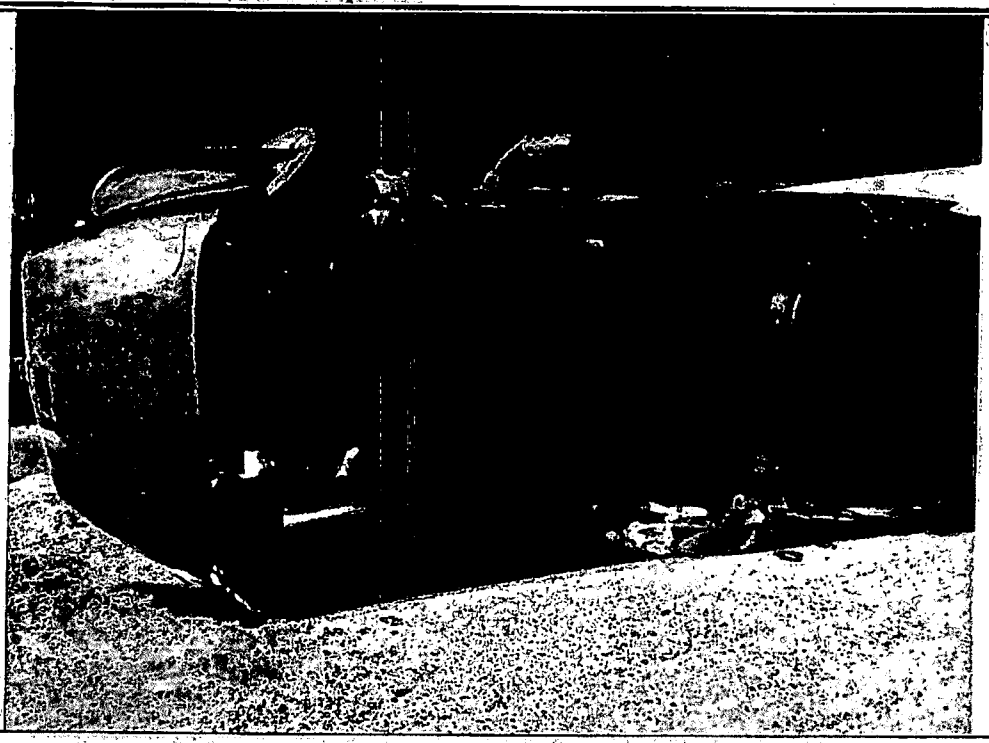


Photo #: 25

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Top of the IV.

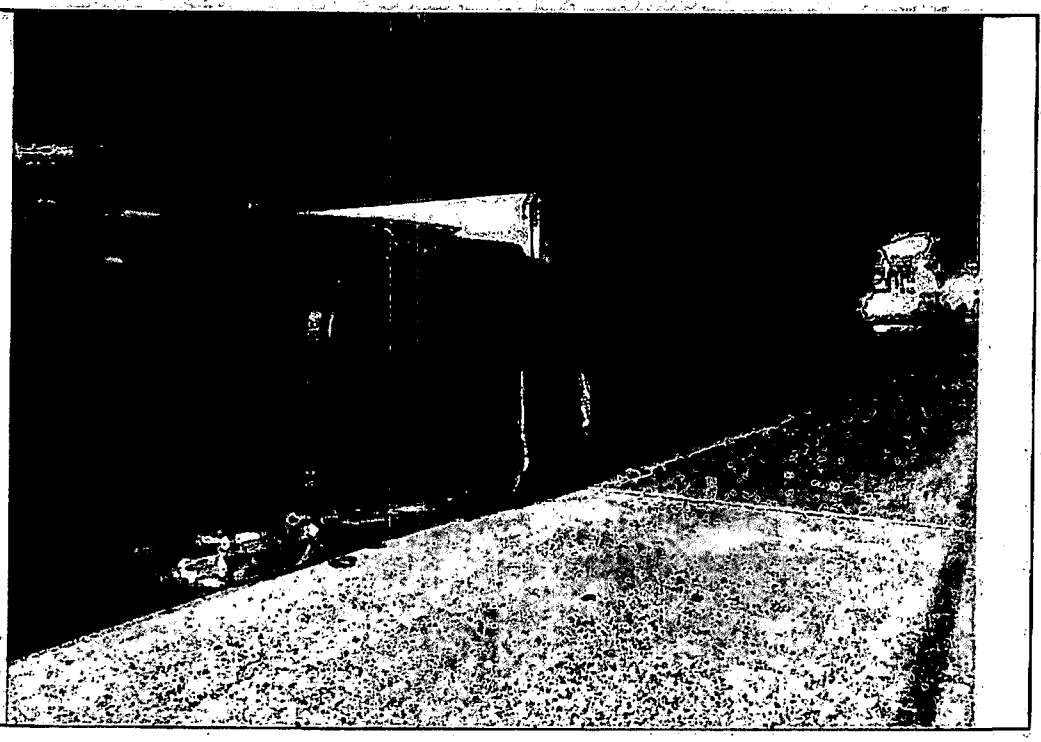


Photo #: 26

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Overview looking east.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

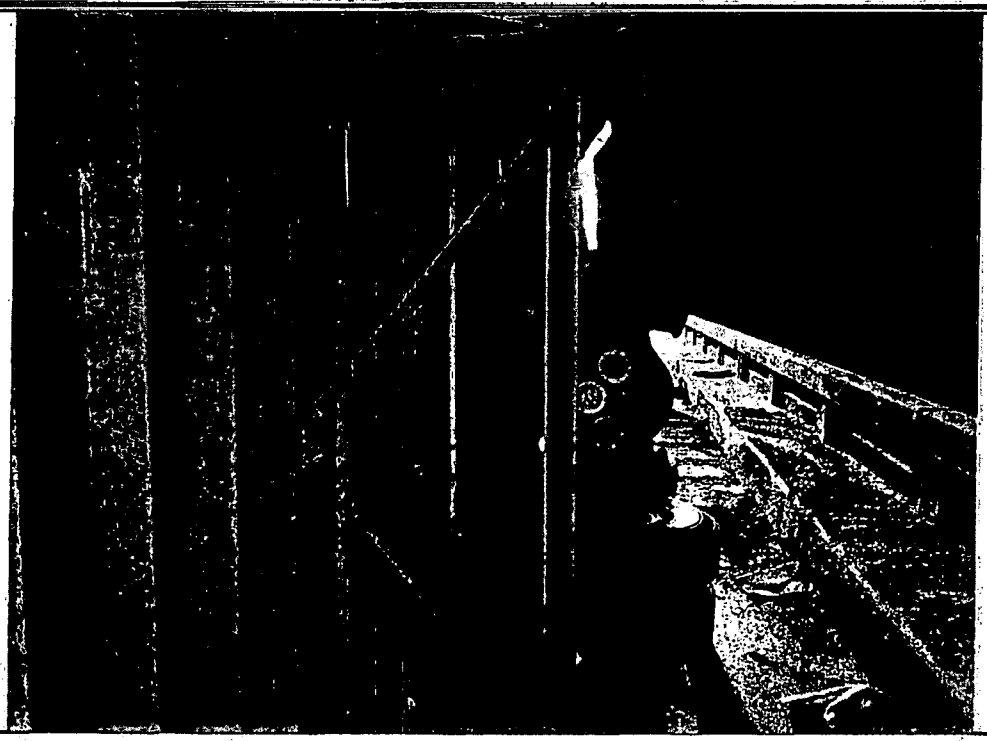


Photo #: 27

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Underside of the trailer looking west.

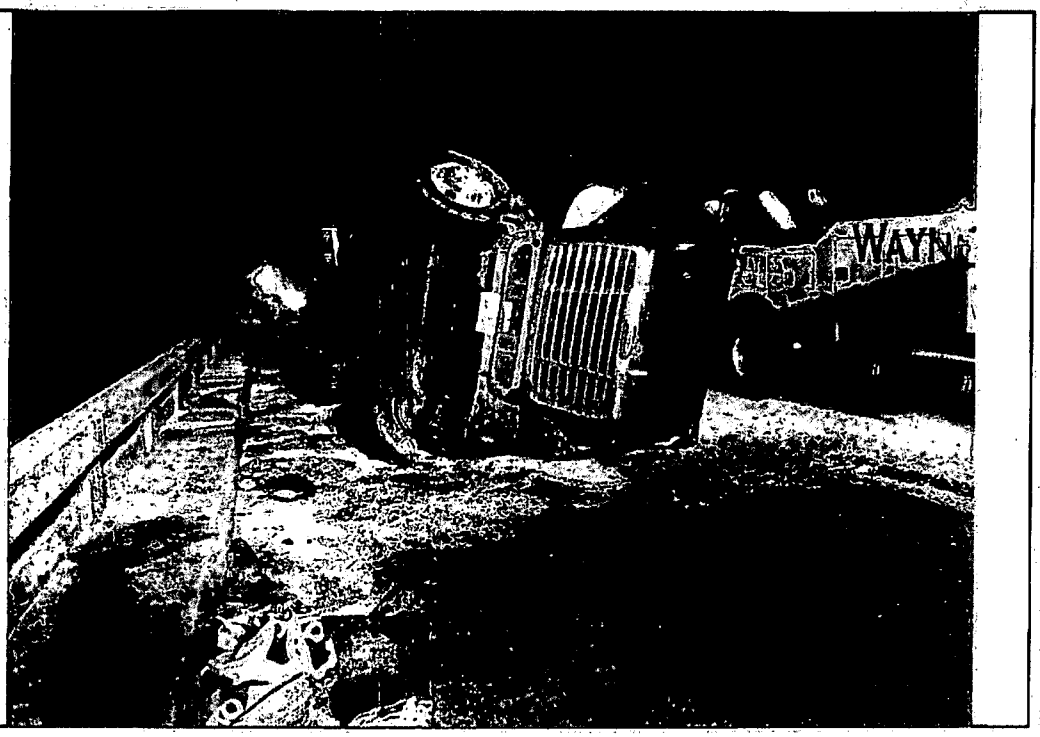


Photo #: 28

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Overview looking east from the south side of the bridge.

SD

000914

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

Photo #: 29

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Damage to the Bridge.

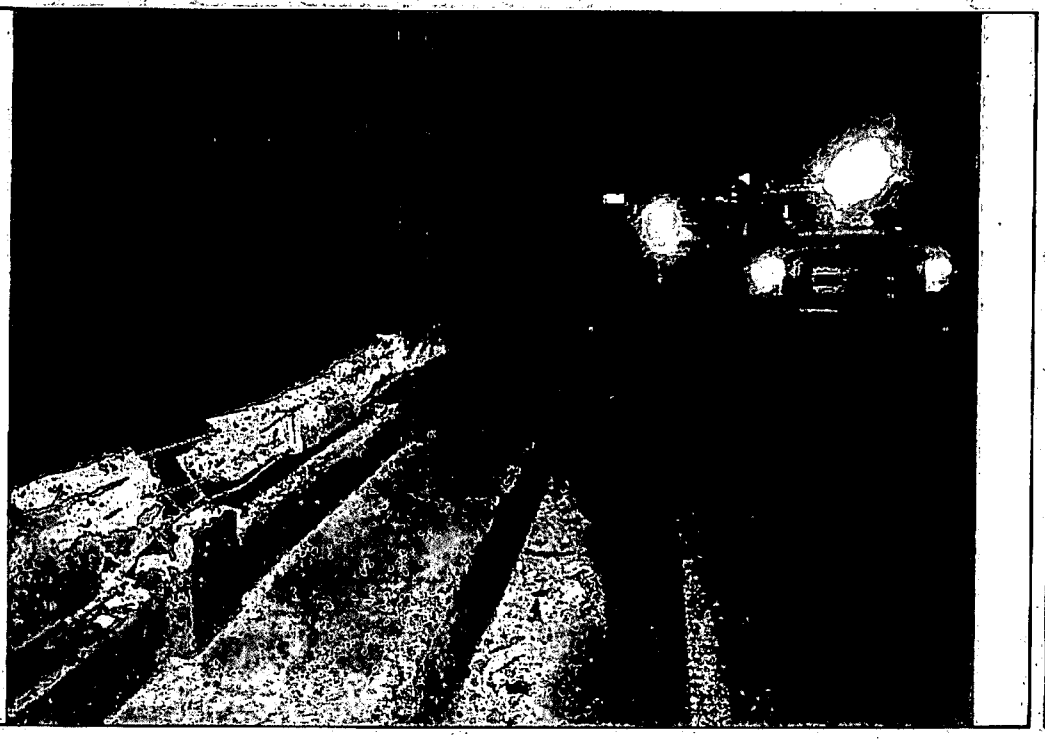


Photo #: 30

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Overview of some of the damage.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

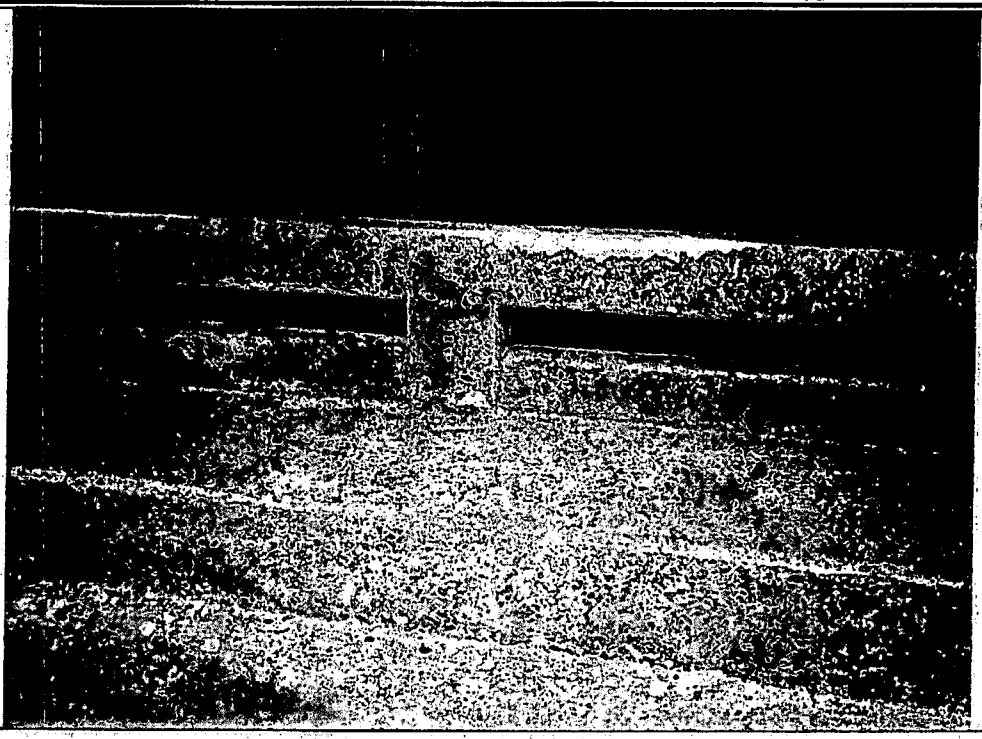


Photo #: 31

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Other damage on the bridge to the concrete rail.

Photo #: 32

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Bridge overview.

52

000916

CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

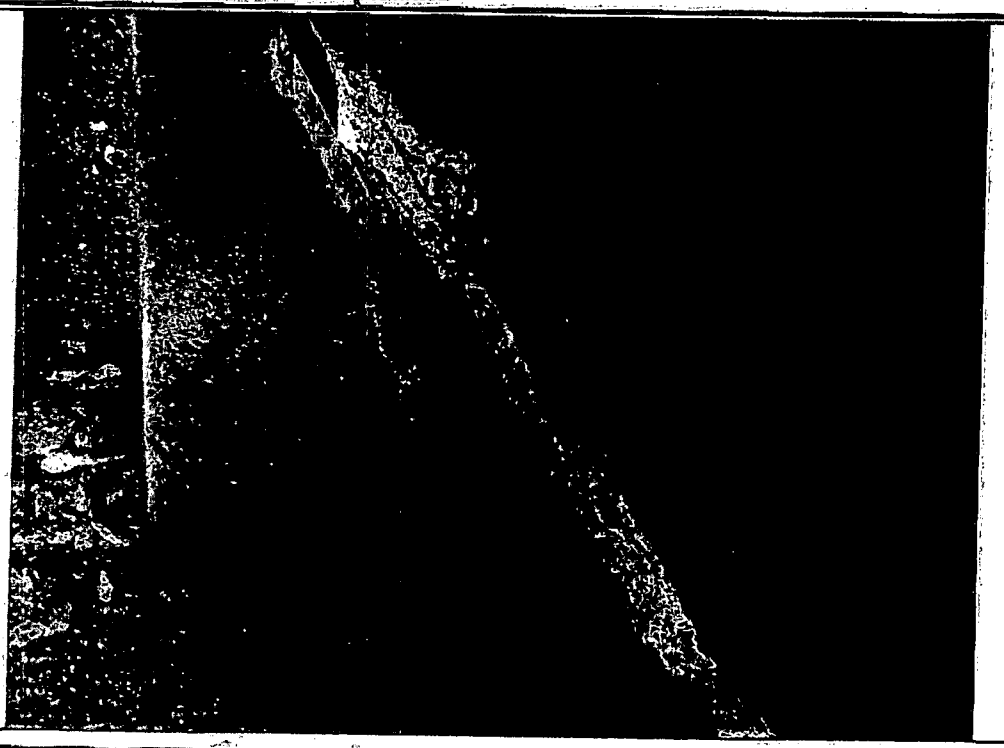


Photo #: 33

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
More bridge damage.

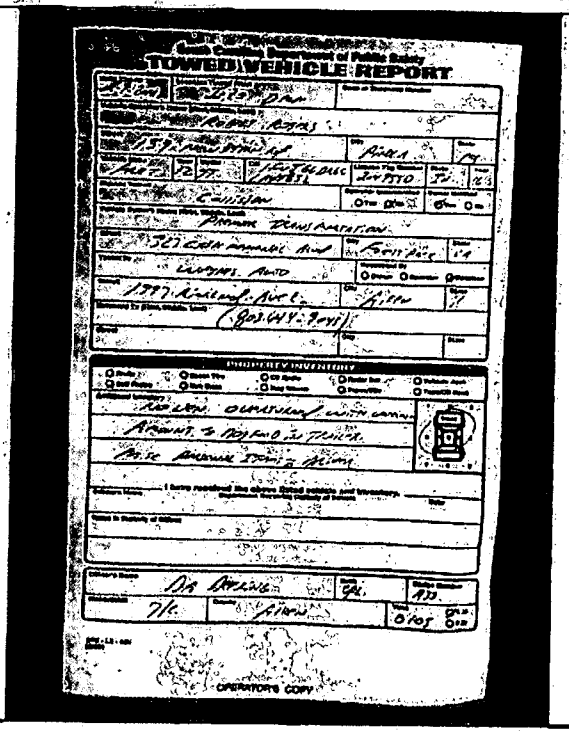


Photo #: 34

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Tow Report as provided by the SC Highway Patrol.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327 **Date of Loss:** 02/09/2016
Customer Claim #: 61A169404 **Adjuster:** John Habegger
Insured/Owner: Premier Transportation

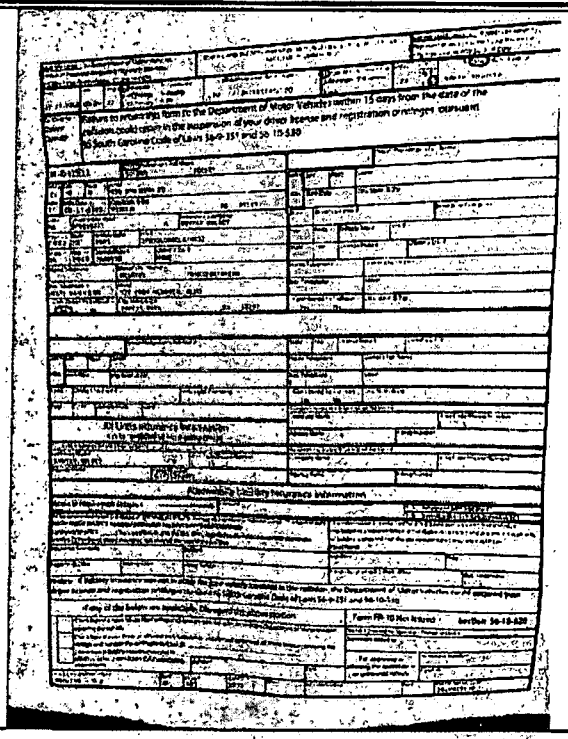
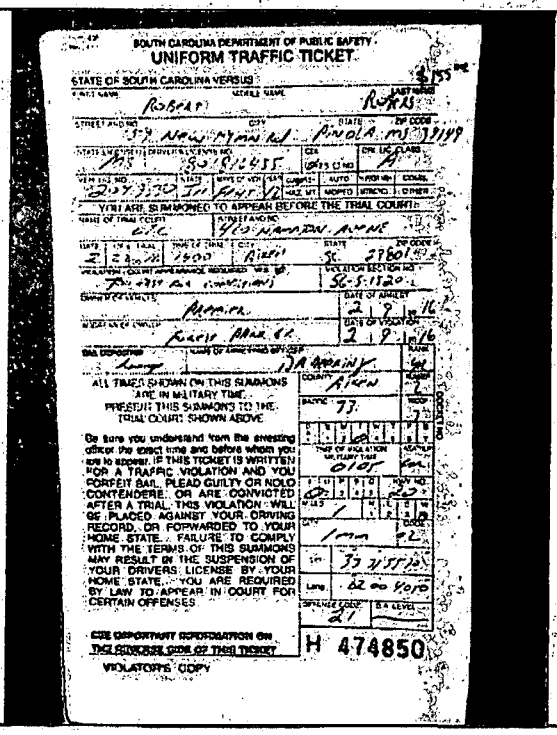


Photo #: 35

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
South Carolina FR-10



SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
UNIFORM TRAFFIC TICKET

STATE OF SOUTH CAROLINA VERSUS

ROBERT ROAS

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT:

ALL TIMES SHOWN ON THIS SUMMONS ARE IN MILITARY TIME.
PRESENT THIS SUMMONS TO THE TRIAL COURT SHOWN ABOVE

Be sure you understand from the arresting officer the exact time and before whom you are to appear. IF THIS TICKET IS WRITTEN FOR A TRAFFIC VIOLATION AND YOU FORFEIT BAIL, PLEAD GUILTY OR NOLO CONTENDERE, OR ARE CONVICTED AFTER A TRIAL, THIS VIOLATION WILL BE PLACED AGAINST YOUR DRIVING RECORD, OR FORWARDED TO YOUR HOME STATE. FAILURE TO COMPLY WITH THE TERMS OF THIS SUMMONS MAY RESULT IN THE SUSPENSION OF YOUR DRIVERS LICENSE BY YOUR HOME STATE. YOU ARE REQUIRED BY LAW TO APPEAR IN COURT FOR CERTAIN OFFENSES

USE CARBONLESS REPRODUCTION ON THE REVERSE SIDE OF THIS TICKET

VIOLATOR'S COPY

H 474850

Photo #: 36

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Traffic Citation issued to the Insured Driver.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #:	**106-004327**	**Date of Loss:**	**02/09/2016**
Customer Claim #:	**61A169404**	**Adjuster:**	**John Habegger**
Insured/Owner:	**Premier Transportation**		

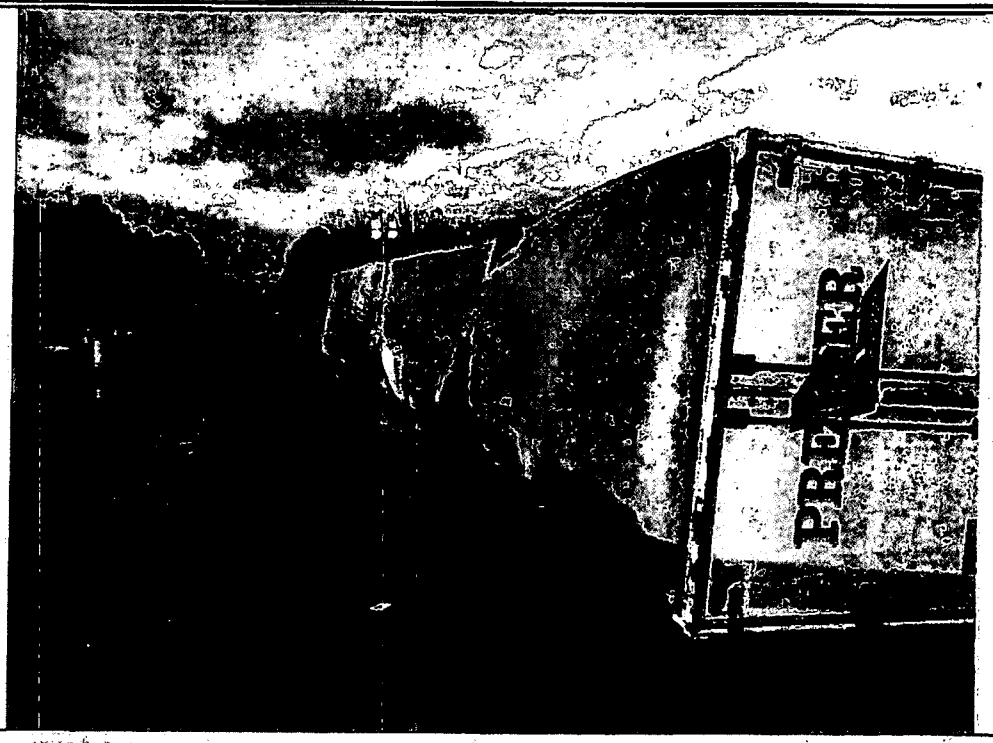


Photo #: 37

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Overview of during daylight hours.

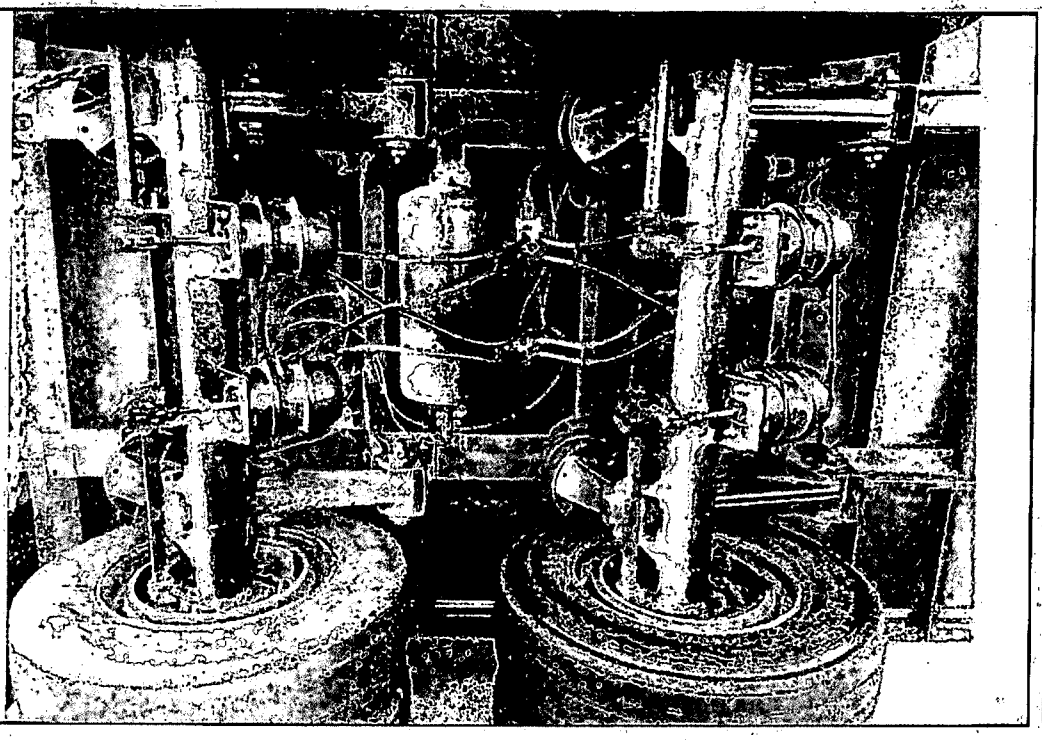


Photo #: 38

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Underside of the vehicle.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

Photo #: 39

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Underside of the trailer.

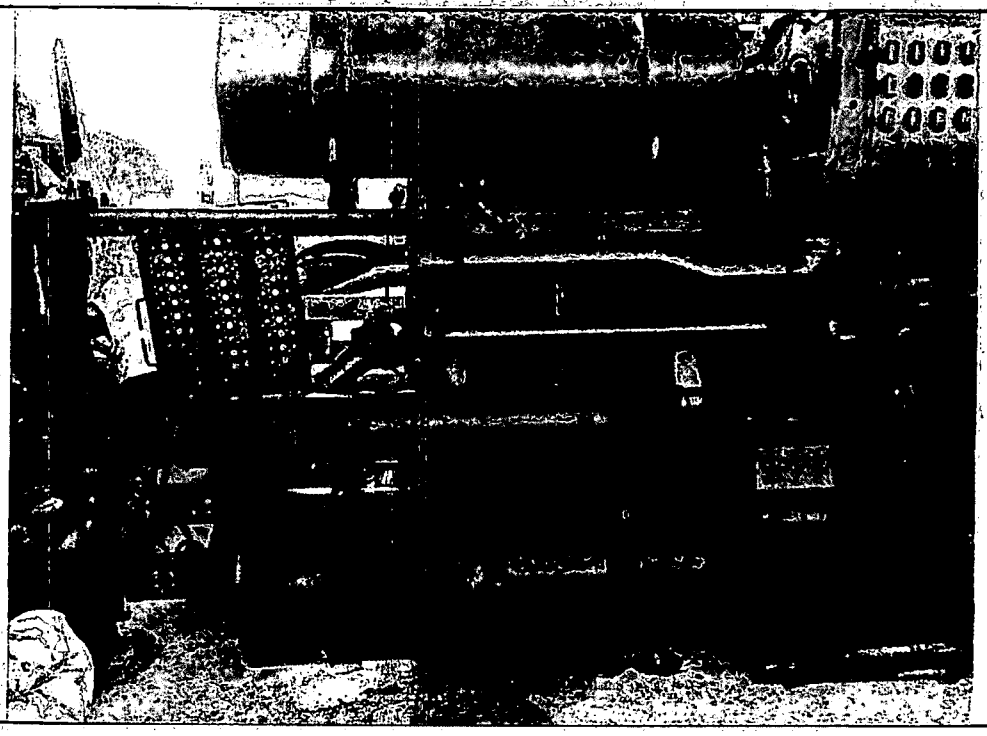


Photo #: 40

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Underside of the tractor. Wet with oil.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #:	**106-004327**	**Date of Loss:**	**02/09/2016**
Customer Claim #:	**61A169404**	**Adjuster:**	**John Habegger**
Insured/Owner:	**Premier Transportation**		

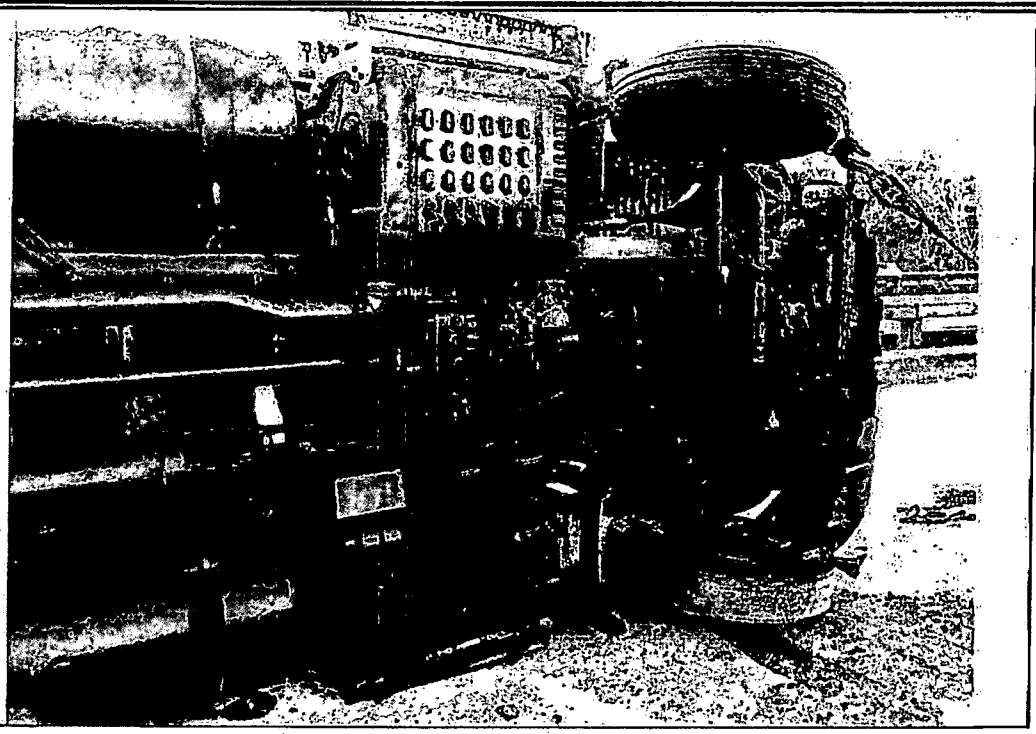


Photo #: 41

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Overview of the underside of the tractor.

Photo #: 42

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
South side of the westbound bridge looking east.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

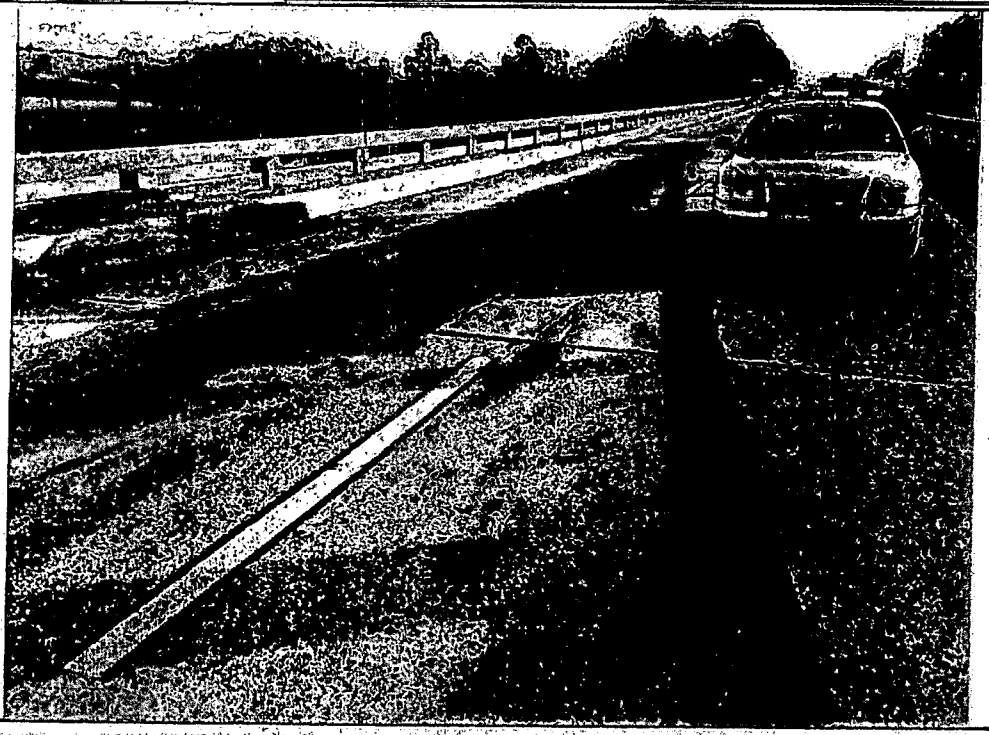


Photo #: 43

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Tire marks on the bridge left by the IV.

Photo #: 44

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Overview of the tire marks.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

Photo #: 45

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Overview of the damage to the bridge.

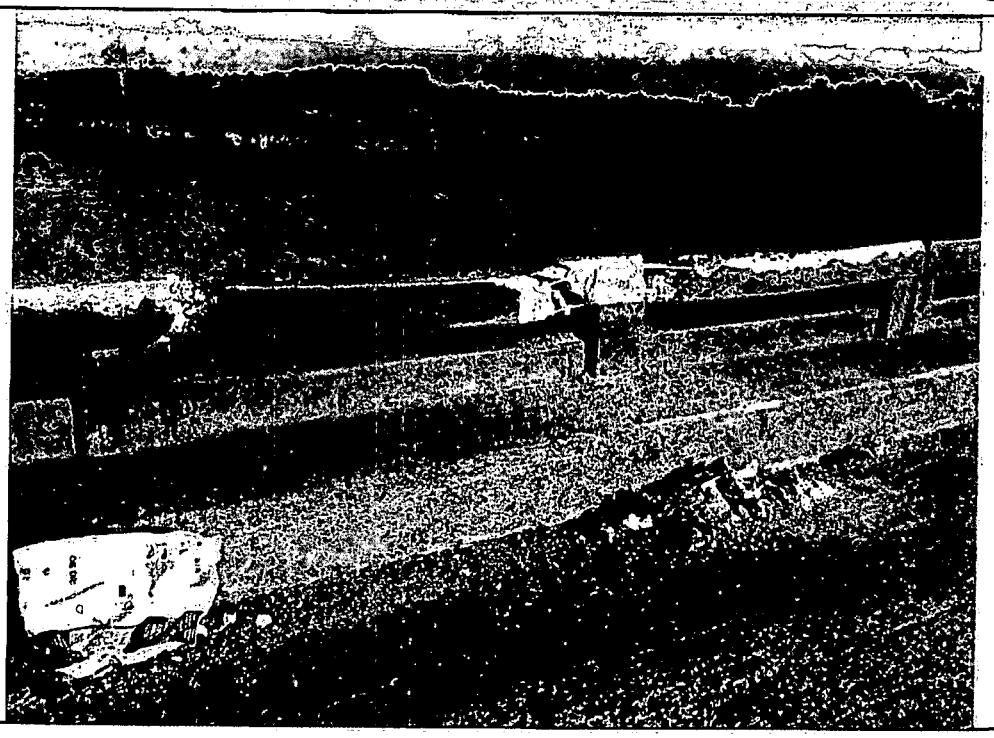


Photo #: 46

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Close-up of damage.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #:	**106-004327**	**Date of Loss:**	**02/09/2016**
Customer Claim #:	**61A169404**	**Adjuster:**	**John Habegger**
Insured/Owner:	**Premier Transportation**		

Photo #: 47

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
More damage.

Photo #: 48

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Overview of damage looking west.

Claim Photo

cia CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

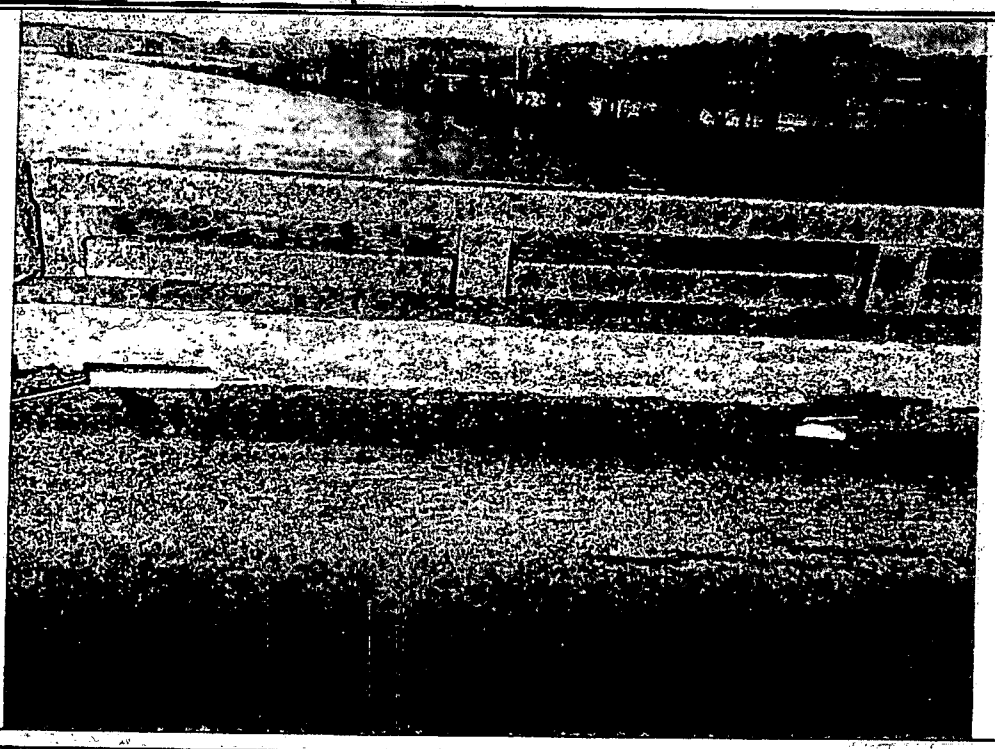


Photo #: 49

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Scrapes are noted along the south side of the westbound bridge.

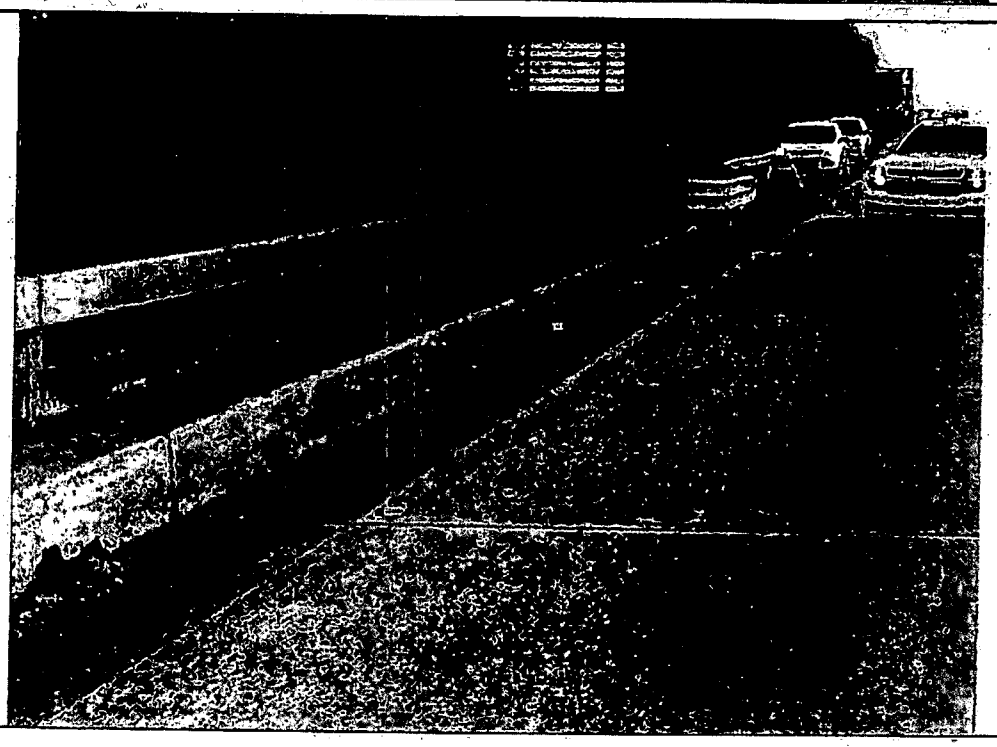


Photo #: 50

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Damage started where the metal rail is located.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327 **Date of Loss:** 02/09/2016
Customer Claim #: 61A169404 **Adjuster:** John Habegger
Insured/Owner: Premier Transportation

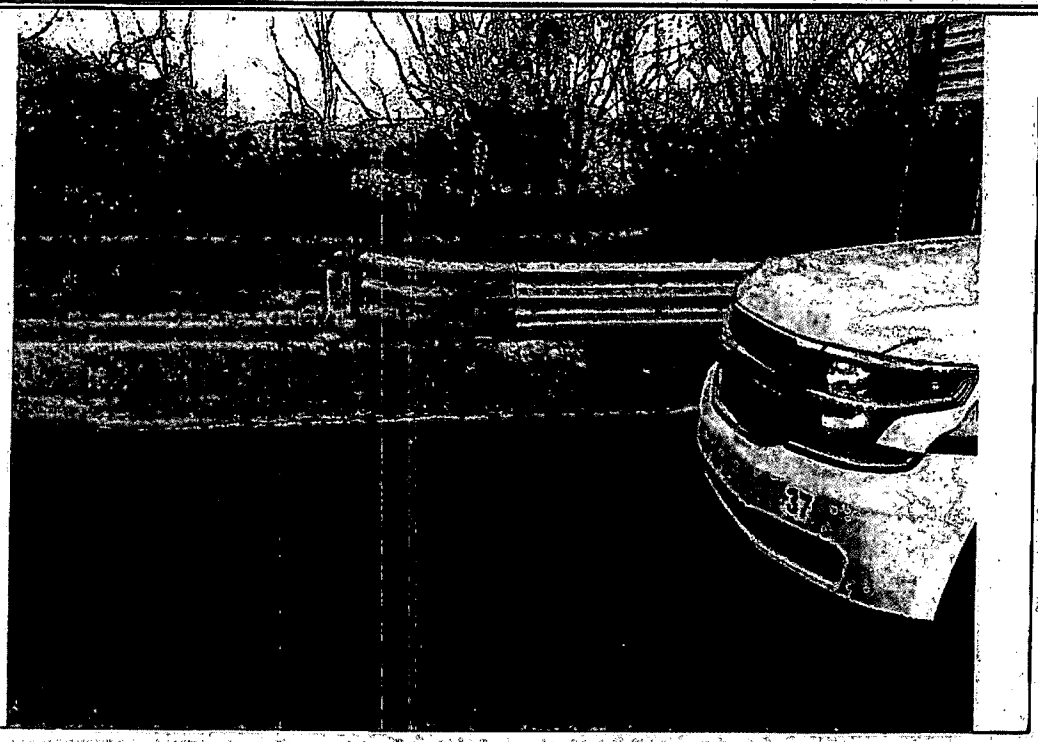


Photo #: 51

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Area of the beginning of where the IV first struck the rail.

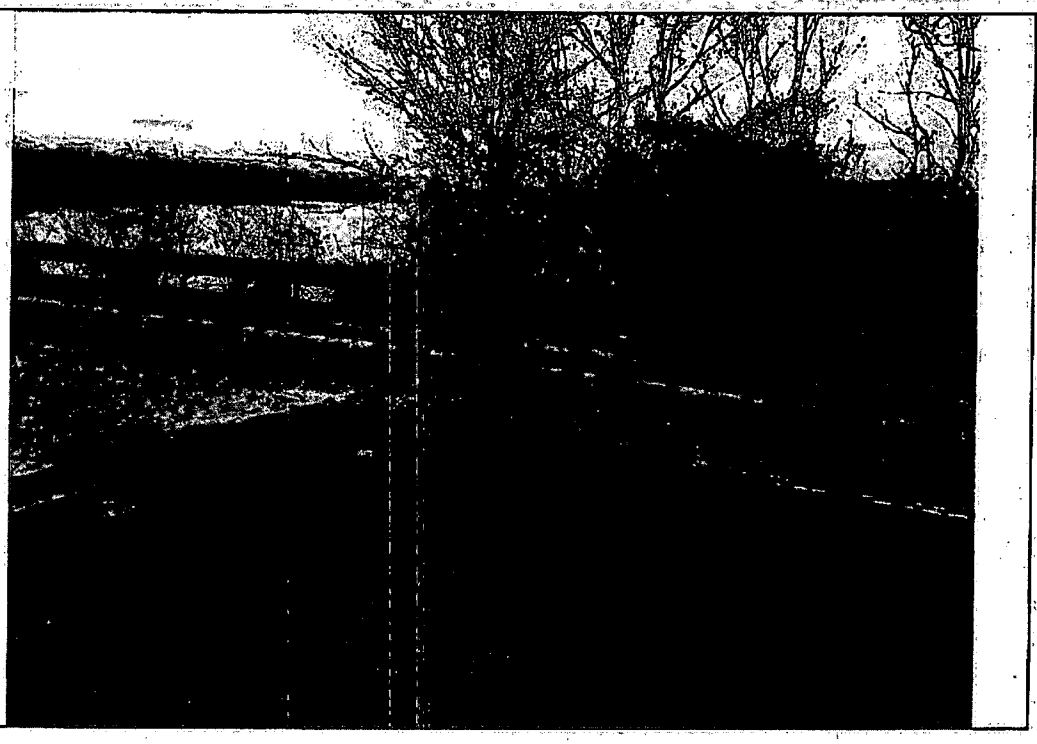


Photo #: 52

Date Taken:
02/09/2016

Taken By:
John Habegger.

Description:
Scrapes along the top side of the bottom portion of the concrete rail.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

Photo #: 53

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Overview of the westbound bridge looking west from the beginning of the bridge.

Photo #: 54

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
View looking west from the north side of the westbound bridge.

Claim Photo

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

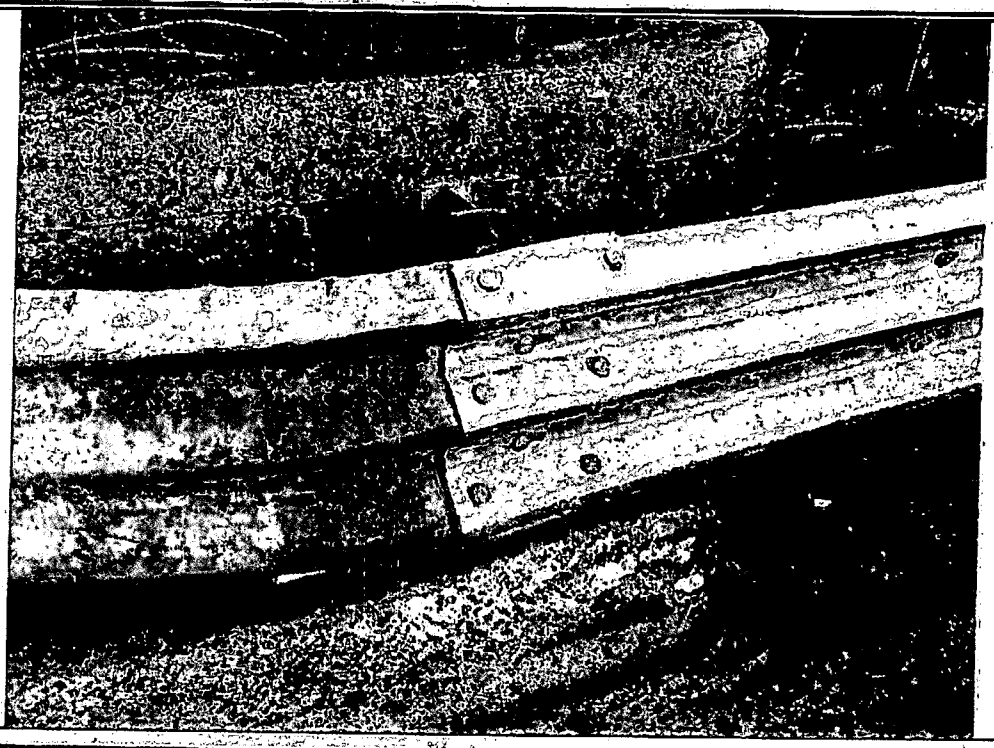


Photo #: 55

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Concrete damage at the beginning of the bridge.

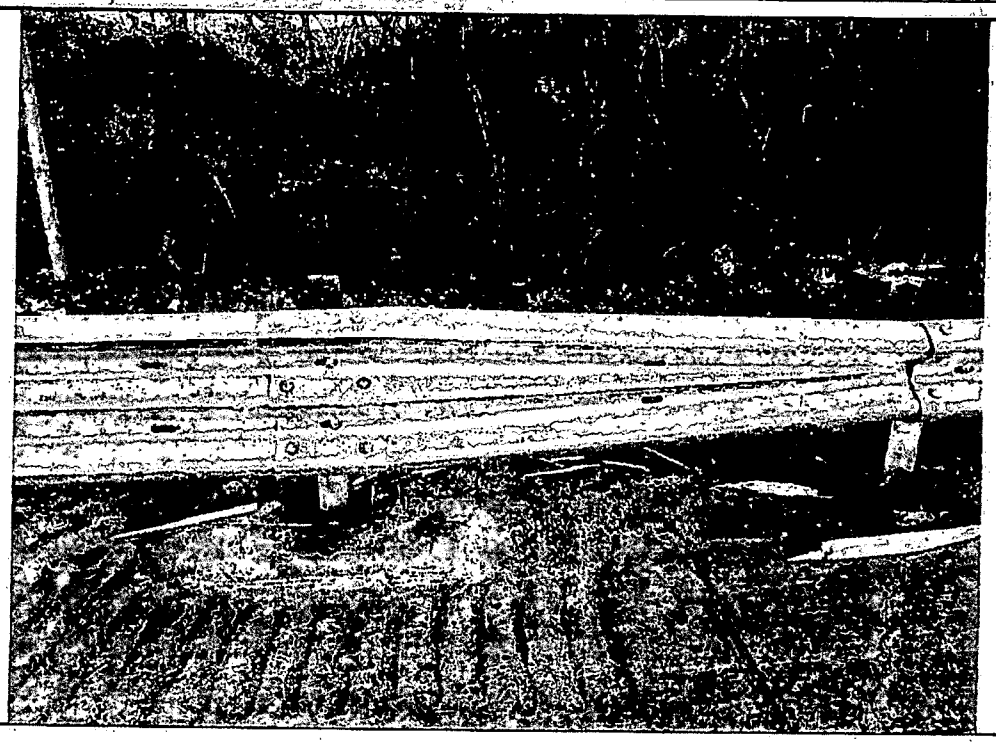


Photo #: 56

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Overview of the entrance of the bridge where the IV struck the left or south side.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #:	106-004327	**Date of Loss:**	02/09/2016
Customer Claim #:	61A169404	**Adjuster:**	John Habegger
Insured/Owner:	Premier Transportation		

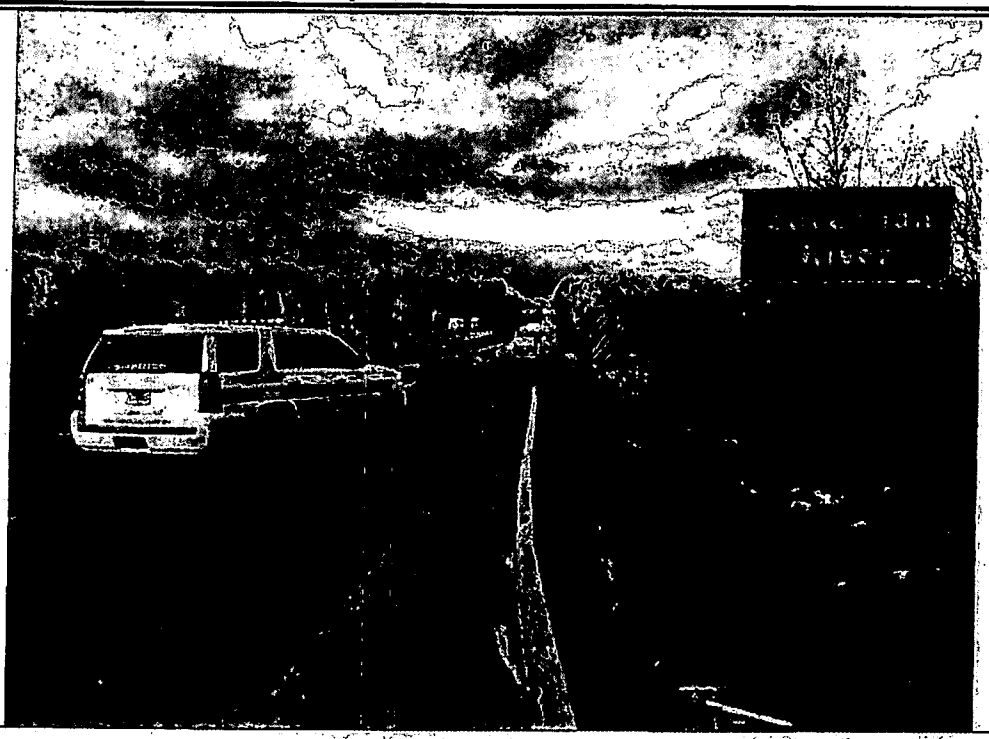


Photo #: 57

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Entrance to the bridge over the Savannah River.

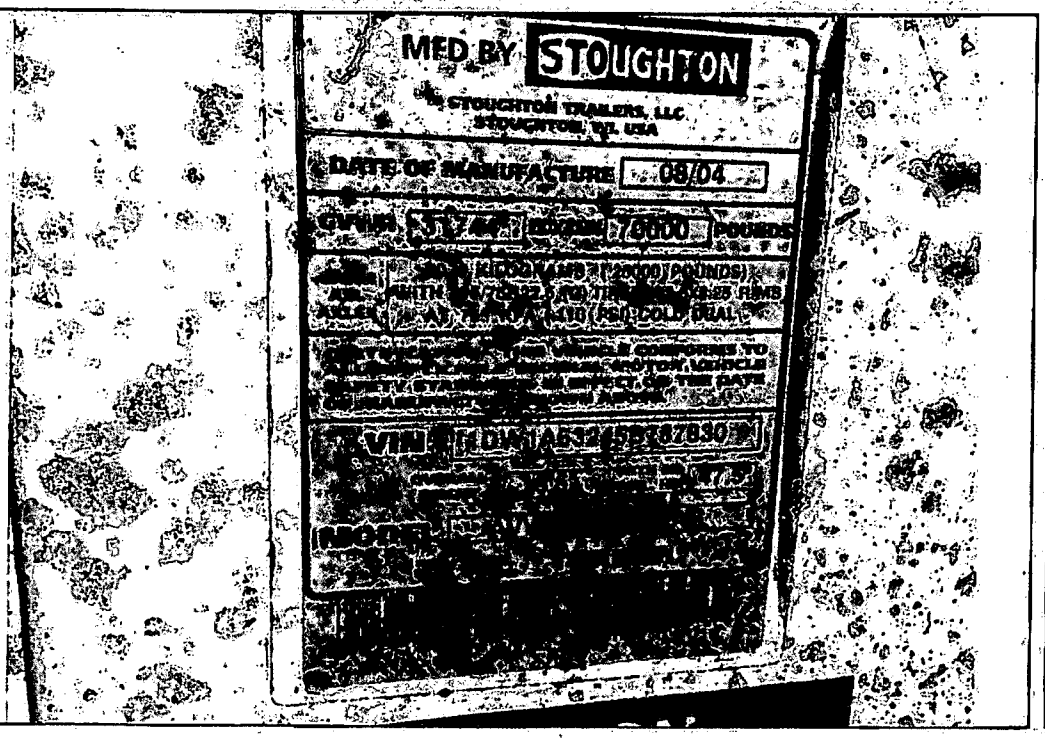


Photo #: 58

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Vin Tag for trailer.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327 **Date of Loss:** 02/09/2016
Customer Claim #: 61A169404 **Adjuster:** John Habegger
Insured/Owner: Premier Transportation

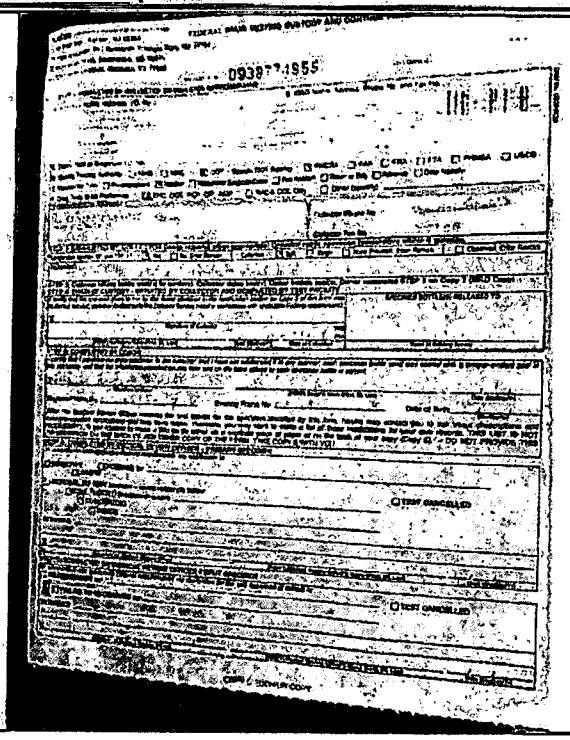


Photo #: 59

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Federal Chain of Custody form for the Insured Driver's DOT screening.

Photo #: 60

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Trailer had to be moved off the bridge in order to open up I-120. Trailer could not be uprighted on the bridge.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

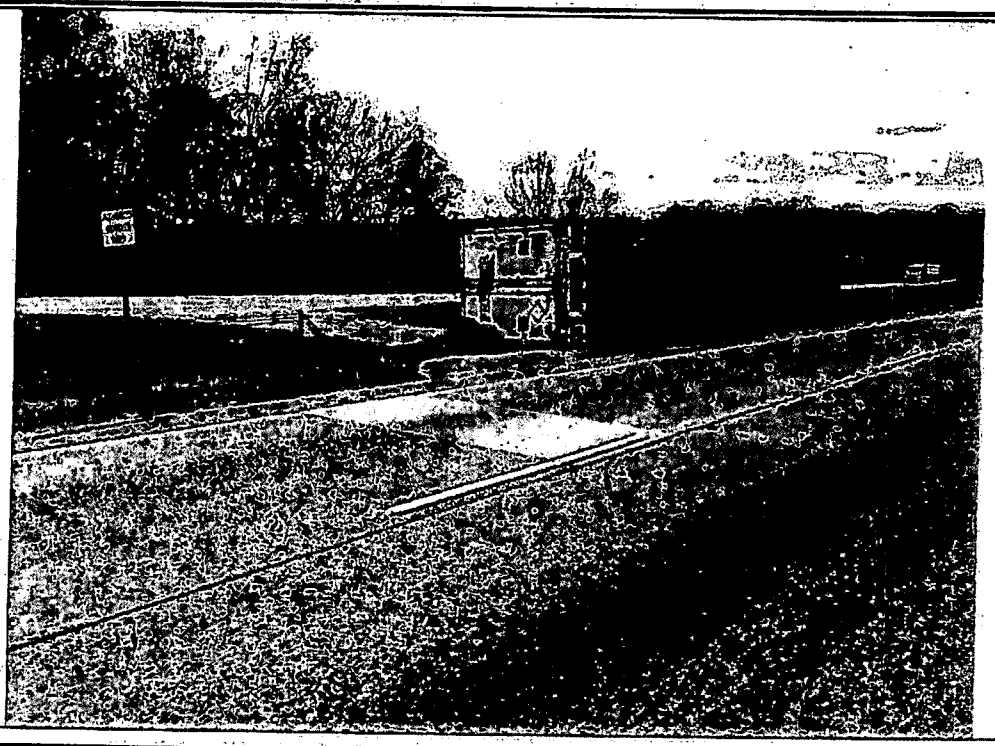


Photo #: 61

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Overview of where the trailer was placed.

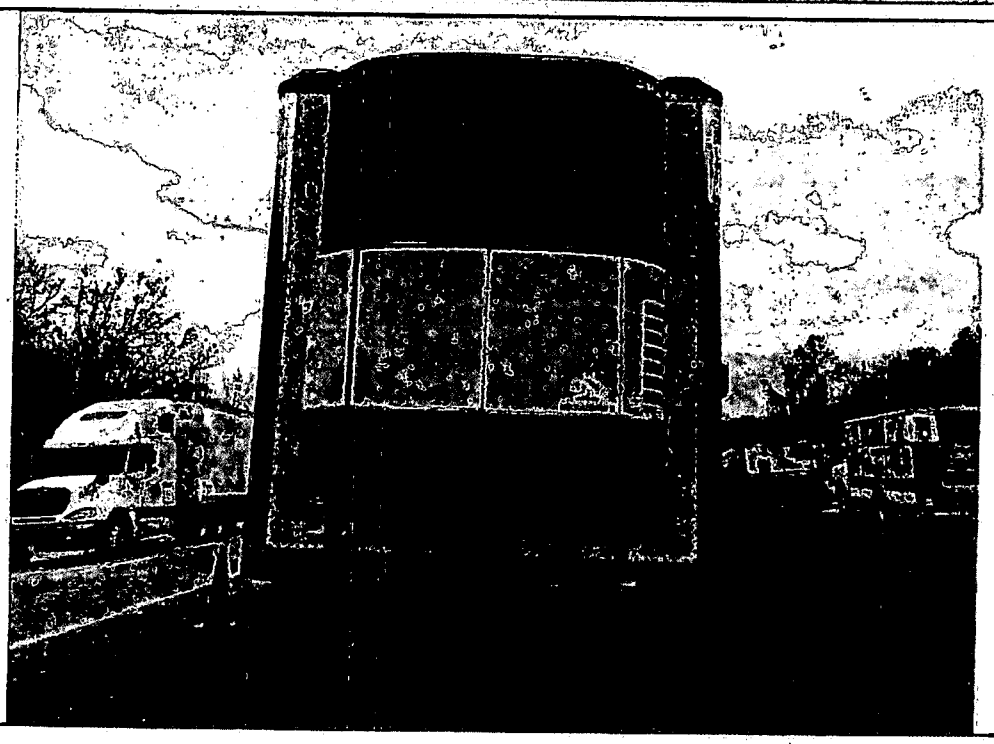


Photo #: 62

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Front of the trailer where the cargo from the damaged trailer is to be transferred to.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327
Customer Claim #: 61A169404
Insured/Owner: Premier Transportation

Date of Loss: 02/09/2016
Adjuster: John Habegger

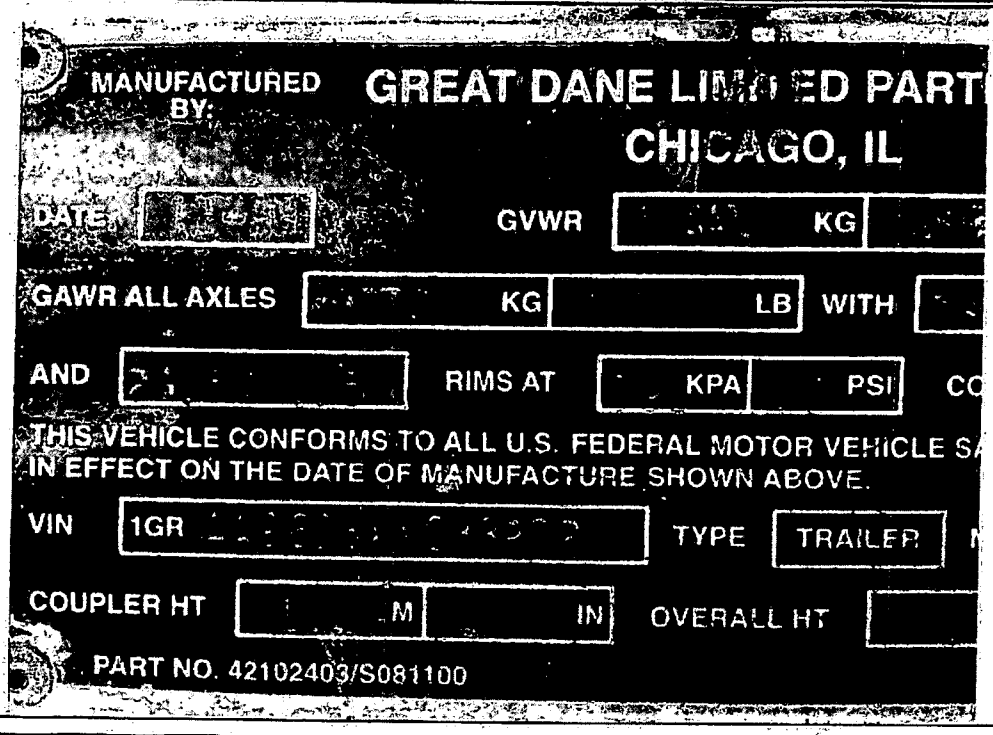


Photo #: 63

Date Taken: 02/09/2016

Taken By: John Habegger

Description: ID tag of the new Trailer that will have the transferred cargo.

Photo #: 64

Date Taken: 02/09/2016

Taken By: John Habegger

Description: Overview of the cargo. Cargo was 41,360lbs of dog food.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327 **Date of Loss:** 02/09/2016
Customer Claim #: 61A169404 **Adjuster:** John Habegger
Insured/Owner: Premier Transportation

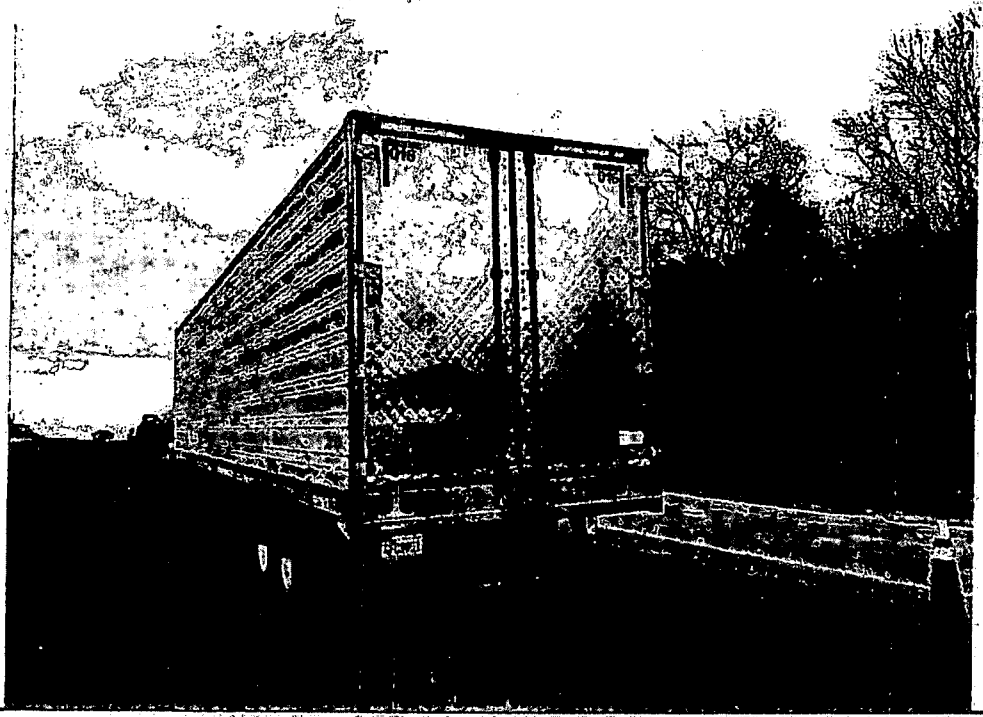


Photo #: 65

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Rear of new trailer that will have cargo transferred into it.

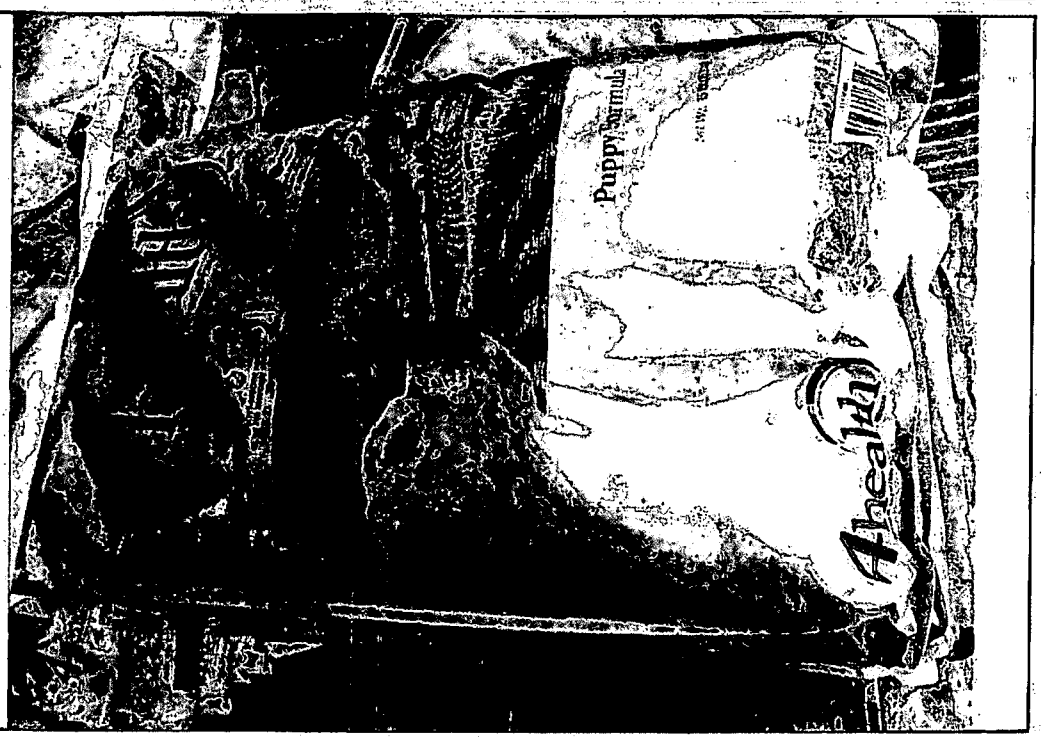


Photo #: 66

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
The trailer had this brand of dog food.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #: 106-004327 **Date of Loss:** 02/09/2016
Customer Claim #: 61A169404 **Adjuster:** John Habegger
Insured/Owner: Premier Transportation

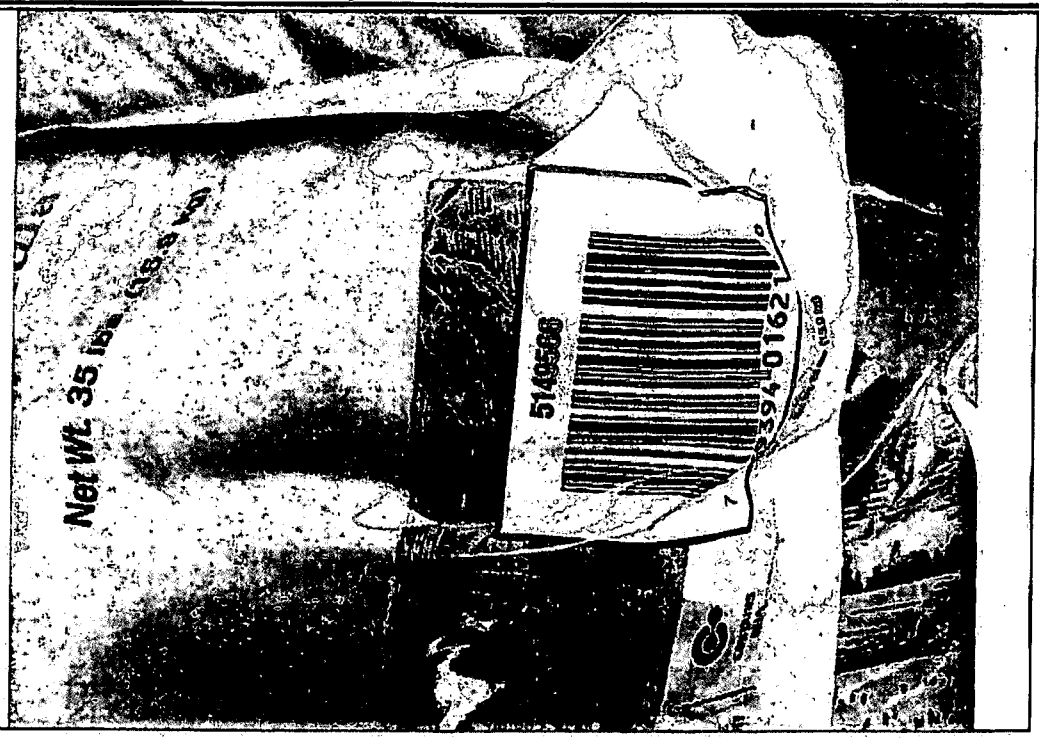


Photo #: 67

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
UPC label for the cargo.

Photo #: 68

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Wayne's towed the trailer back to their location in Aiken, SC.

Claim Photo

CIA CUSTARD INSURANCE ADJUSTERS

CIA File #:	**106-004327**	**Date of Loss:**	**02/09/2016**
Customer Claim #:	**61A169404**	**Adjuster:**	**John Habegger**
Insured/Owner:	**Premier Transportation**		

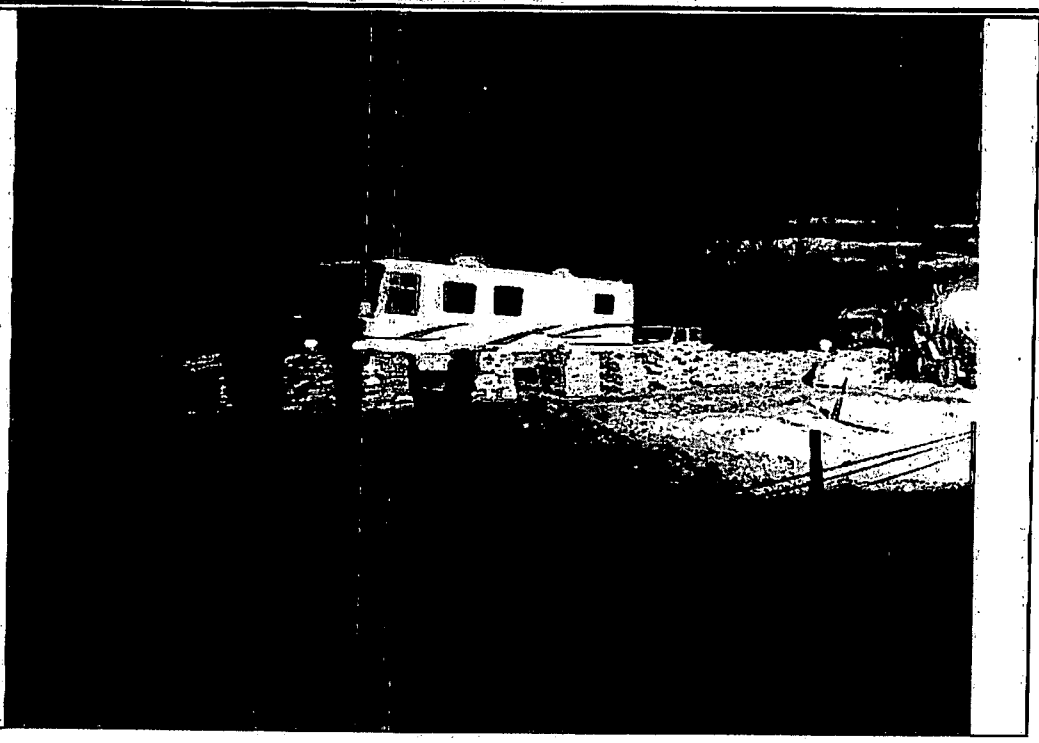


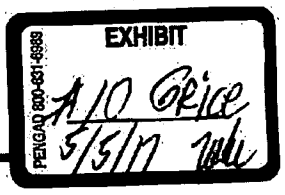
Photo #: 69

Date Taken:
02/09/2016

Taken By:
John Habegger

Description:
Wayne's made a couple of trips to transfer load.

6



King, Nicklous W.

From: Grice, Anthony K.
Sent: Tuesday, February 16, 2016 4:55 PM
To: King, Nicklous W.
Subject: Fwd: Emailing - scan0053.pdf Sentry Claim# 61A169464 Complaint against Waynes auto
Attachments: Big Wheel tower of the year..pdf; ATT00001.htm

Captain A.K. Grice
SC Highway Patrol-Troop 7

Begin forwarded message:

From: Bob Watson <towinsurance@gmail.com>
Date: February 16, 2016 at 3:58:38 PM EST
To: <akgrice@scdps.gov>
Subject: Fwd: Fwd: Re: Emailing - scan0053.pdf Sentry Claim# 61A169464 Complaint against Waynes auto

This is what going on in the industry

-------- Forwarded Message --------

Subject: Fwd: Re: Emailing - scan0053.pdf Sentry Claim# 61A169464 Complaint against Waynes auto
Date: Tue, 16 Feb 2016 10:29:55 -0500
From: Bob Watson <towinsurance@gmail.com>
To:akgrice@scdps.gov

Here are some of my concerns.

-------- Forwarded Message --------

Subject: Re: Emailing - scan0053.pdf Sentry Claim# 61A169464
Date: Tue, 16 Feb 2016 09:56:42 -0500
From: Bob Watson <towinsurance@gmail.com>
To: Sherry Corbett <sherry@waynesautomotivecenter.com>
CC:rswords@premiertransportation.com <rswords@premiertransportation.com>, Trish Felix <trish@waynes-towing.com>, Dailey Krisann <Krisann.Dailey@sentry.com>, Lucas Sentry <Lucas.Bartelt@sentry.com>

Sherry,

Thank you for your response, however there still are several issues that require answers.

1. The cargo needs to be released today.
2. Looking at the air bag recovery, I can see why one of your bags got ruined due to the improper method the air bags were used. There were no straps, no angle iron and due to the improper

000936

installation, ripped a damaged trailer that was repairable into pieces, resulting in it being totaled. This effort was a waste of time due to the improper use. Please refer to the attached photo illustrating how to do an air bag job that took about 1 hour with no loss to the trailer or cargo and no air bag damage.
3. After the tractor trailer was up righted, why did the the HD stay for hours for no apparent reason for a total of 21 hours?
4. I have a major problem with all the hours, labor rates, OSHA certified radio equipment and other miscellaneous charges. You charged $50.00 each for cones which typically cost about $25.00 each.

I await your response .

Bob Watson

On 2/15/16, 7:05 PM 7:05 PM, Sherry Corbett wrote:

> Due to your questions and concerns the items are now broken out by hours, equipment, supplies etc. no items are lumped sum which has clearly increased the total price. We generally provide the companies with detailed information to prevent miscommunication of the assumption of overcharges in the beginning. We were informed that the insurance was split therefore proceeded to break it out for their convenience.
> The company also has an additional trailer on our property being stored at no additional cost at the moment. If you have additional questions I will be happy to discuss them with you or the insurance representative that was on site the entire time that didn't seem to have any concerns then.
>
> Questions regarding the air cushion recovery, the air cushions were initially used as an attempt to preserve your trailer and your load of cargo after the trailer blew our bags out we then attempted to only try and preserve your whole load of cargo with minimal waste of cargo. Your trailer also had received some previous repair work in various places that would contribute to its separation.
>
> A discount was also offered for last week ONLY due to the insistency on picking the cargo immediately which is now not available.
>
> You will also take note that there is NO ADMIN FEE that would have consisted of covering:
>
> 1. Digital Photography of accident scene.
> 2. Downloading photos on hard drive
> 3. Preparing detailed narrative invoice TWICE from information gathered from supervisor and recovery crew on scene.
> 4. Itemizing all equipment used on accident scene.
> 5. Preparing all information for billing agent.
> 6. Interact with operator of vehicle or owner at the storage yard. Escort person or persons to inspect vehicle, trailer, and cargo.
> 7. Interact with Insurance appraiser with numerous phone calls.
> 8. Faxing/emailing recovery invoices and pictures to adjusters and company.
> 9. Assist in releasing of the tractor, trailer and cargo.
>
> The following is a link that has been setup for pictures, it is being updated daily by different technicians and safety advisor.

https://www.dropbox.com/sh/uhvt43l8nifn5qf/AABg6ZAI9B7TdlPCNORDcjGDa?dl=0

Sherry Corbett
Wayne's Automotive and Towing Center
South Carolina Incident Management

http://www.linkedin.com/in/sherrycorbett
http://www.waynesautomotivecenter.com
http://waynes-towing.com
https://www.facebook.com/WaynesAutomotiveCenterInc
https://www.facebook.com/WaynesTowingRecoveryHauling

--
Robert Watson
President, Recovery Resolution Specialists

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King, Nicklous W.

From: Bob Watson [towinsurance@gmail.com]
Sent: Wednesday, February 17, 2016 11:30 AM
To: King, Nicklous W.
Subject: Wayne towing.
Attachments: img20160217_11293354.pdf

--
Robert Watson
President, Recovery Resolution Specialists

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Wayne's Automotive and Towing Center

SCIM
Spill Containment Incident Management
1997 Richland Avenue East
Aiken, SC 29801

Invoice

Date	Invoice #
2/10/2016	504462

Bill To
J. H. O. C., INC. Premier Transportation 323 CASH MEMORIAL BOULEVARD FOREST PARK GA 30297 282577

P.O. No.	Terms	Project
	Due Upon Receipt	

Description	Qty	Rate	Amount
Repacking Fee and Reloading from Loading Dock onto Trailer 2nd Load	1	750.00	750.00
Backhoe 420D and Transport and Heavy Operator	11.5	350.00	4,025.00
Skid Steer Track Loader and Transport	1	600.00	600.00
Back Deck Blower used for cleaning highway on bridge	1	275.00	275.00
Restocking and Reload Cargo	1	500.00	500.00
OSHA Certified Incident Communication Equipment	1	1,795.00	1,795.00
Emergency Digital Signage I-20 W Message Board exit 6 Detour Traffic with Cones	20	75.00	1,500.00
Emergency Digital Signage I-20 E Digital Arrow Board	20	75.00	1,500.00
Light Tower	8	75.00	600.00
Traffic Control High Intensity Sign 36x36 used a total of 4 on both East and West lanes	20	50.00	1,000.00
26 In. Traffic Cones total of 48	20	50.00	1,000.00
Pallats for Restocking	3	22.95	68.85
PIG MAT240	25	7.50	187.50
Containment Booms used for containment preventing release into Savannah River below site	1	85.00	85.00
Containment Liner	1	175.00	175.00
Storage Per Unit as of 02/15/2016	1	210.84	210.84
Storage Per Unit as of 02/15/2016	6	50.00	300.00
	6	50.00	300.00

5% Interest Accrual for non payment in 5 days.

Total	$69,017.19
Payments/Credits	$0.00
Balance Due	$69,017.19

Phone #
803-226-0025

E-mail
sherry@waynesautomotivecenter.com

Wayne's Automotive and Towing Center

SCIM
Spill Containment Incident Management
1997 Richland Avenue East
Aiken, SC 29801

Invoice

Date	Invoice #
2/10/2016	504462

Bill To
J. H. O. C., INC. Premier Transportation 323 CASH MEMORIAL BOULEVARD FOREST PARK GA 30297 282577

P.O. No.	Terms	Project
	Due Upon Receipt	

Description	Qty	Rate	Amount
60 Ton Rotator HD4 used for upright winching both tractor and trailer	21	436.00	9,156.00
Class C Heavy Duty Truck HD5 used for upright winching both tractor and trailer	21	436.00	9,156.00
Class C Heavy Duty Tractor with Trailer used for Transfering Cargo and storing HD3/RECOVERY TRAILER	13	436.00	5,668.00
Recovery Supervisor JC	21	175.00	3,675.00
Recovery Technician BH	21	175.00	3,675.00
Recovery Technician KJ	21	150.00	3,150.00
Recovery Technician JH	13	150.00	1,950.00
Recovery Technician BR	8	85.00	680.00
Recovery Technician WB	10	150.00	1,500.00
Response Unit used for transporting supplies, snatch blocks, oil dry, absorbents, booms, back deck blower, brooms, shovels, etc.	20	175.00	3,500.00
Air Cushion Recovery	2	4,000.00	8,000.00
Transfer Cargo from scene to loading dock Containment Unit (this includes reloading an offsite facility)	1	750.00	750.00
Labor Hours for transferring from the scene and repackaging WB	9	90.00	810.00
Labor Hours for transferring from the scene and repackaging JH	7	50.00	350.00
Labor Hours for transferring from the scene and repackaging WRH	1.5	50.00	75.00
Labor Hours for transferring from the scene and repackaging JS	7	50.00	350.00
Labor Hours for transferring from the scene and repackaging PW	3.5	50.00	175.00
Labor Hours for transferring from the scene and repackaging MR	7	50.00	350.00
Labor Hours for transferring from the scene and repackaging KS	3.5	50.00	175.00
Labor Sublet from Verns (3 Guys used for transferring and repacking)	1	1,000.00	1,000.00

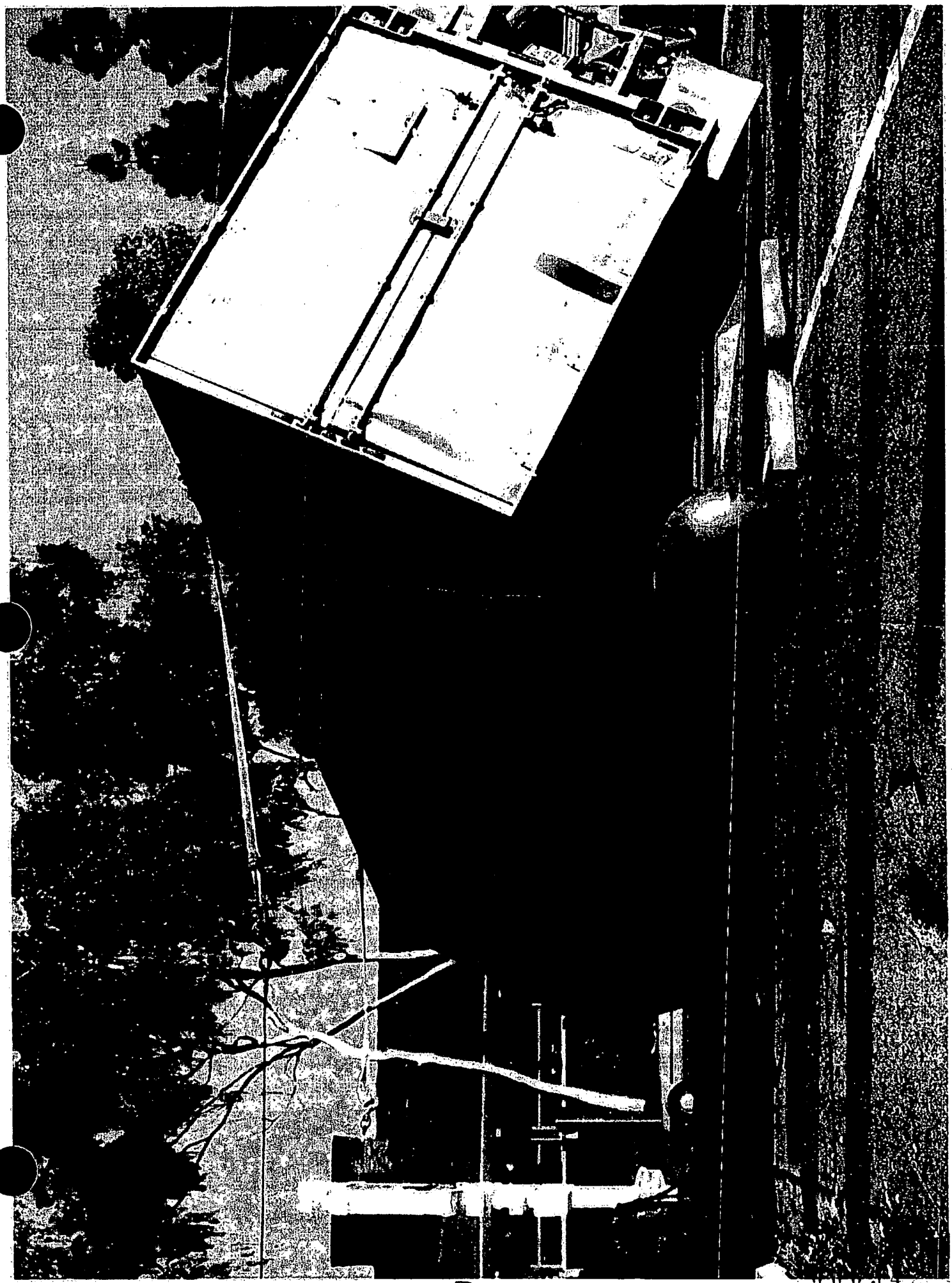
5% Interest Accrual for non payment in 5 days.

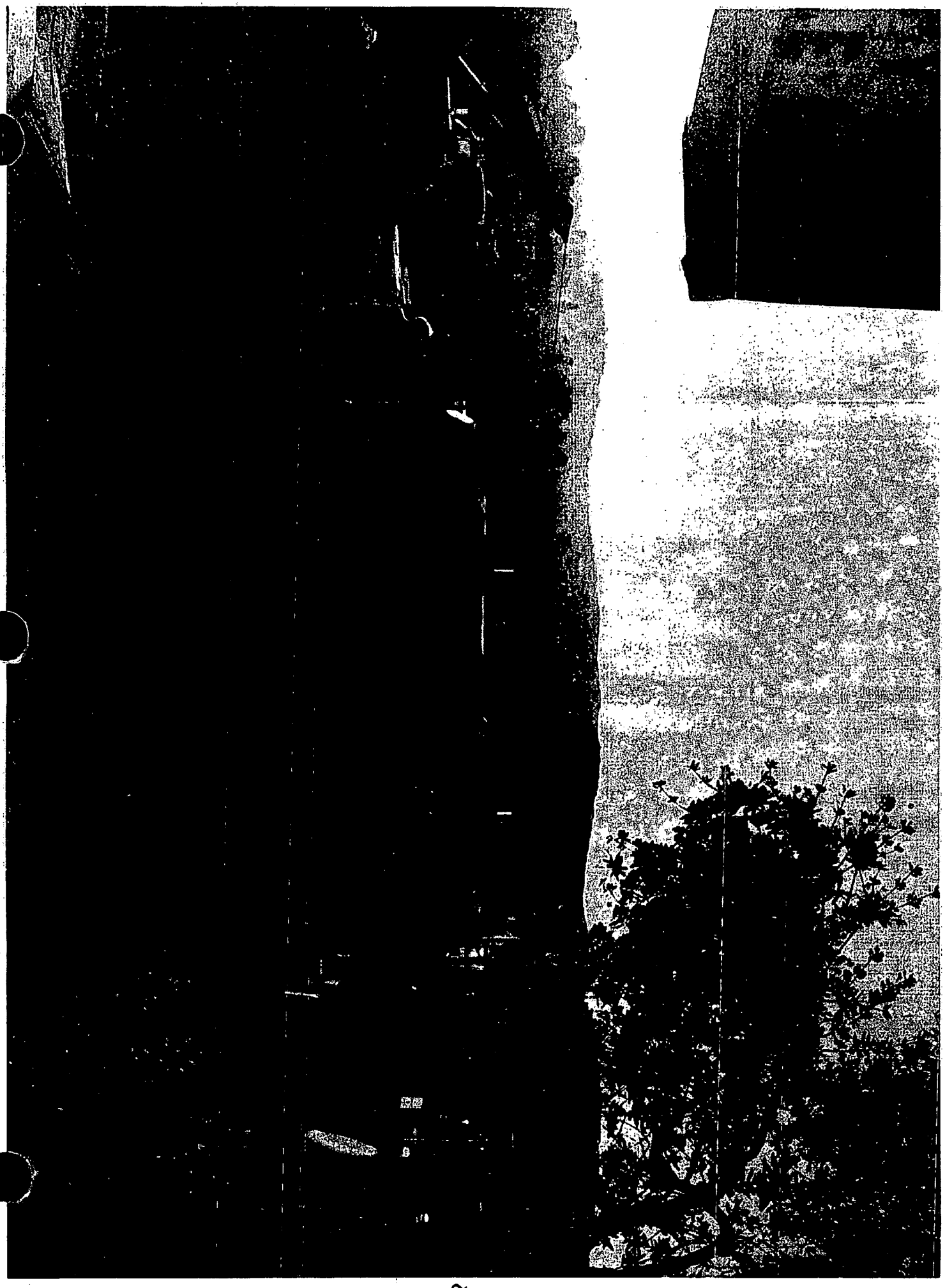
	Total
	Payments/Credits
	Balance Due

Phone #	E-mail
803-226-0025	sherry@waynesautomotivecenter.com

000941

6





King, Nicklous W.

From: Bob Watson [towinsurance@gmail.com]
Sent: Wednesday, February 17, 2016 4:12 PM
To: King, Nicklous W.
Subject: Air bag recovery
Attachments: Air bag 1.jpg; Air bag 2.jpg

2 more pictures coming

--
Robert Watson
President, Recovery Resolution Specialists

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King, Nicklous W.

From: Bob Watson [towinsurance@gmail.com]
Sent: Wednesday, February 17, 2016 4:36 PM
To: tcurran@premiertransportation.com; Dailey Krisann; Lucas Sentry; King, Nicklous W.
Subject: Re: Claim# 61A169404

Tom, Did you get the cargo out?

All, besides getting the cargo out please let me handle the tow bill and dividing it up. The tow co is getting numerous calls for with different requests.

Tom I was told Travelers is involved in the cargo. Please give the claim number and contact person on that.

Officer King who is on this email ask me to get one point of contact.

Thanks Bob

On 2/15/16, 11:49 AM 11:49 AM, tcurran@premiertransportation.com wrote:
> I

--
Robert Watson
President, Recovery Resolution Specialists

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King, Nicklous W.

From: Bob Watson [towinsurance@gmail.com]
Sent: Friday, February 19, 2016 11:12 AM
To: King, Nicklous W.
Subject: I have called Jeff to pick up the cargo and will not return my call.

No one else will talk to me.

--
Robert Watson
President, Recovery Resolution Specialists

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King, Nicklous W.

From: Bob Watson [towinsurance@gmail.com]
Sent: Friday, February 19, 2016 11:33 AM
To: King, Nicklous W.; Karen Coppolino; Lucas Sentry; Haz Mat; Hughes, Clifton B.
Subject: Official complaint on Waynes towing Claim 61a169404 Premier Transporation

Officer King, I have called the tow company for 2 days and the owner (Jeff is the only one that is to talk with me) has not called me back.
I cannot get an answer on the cargo trying to get it pickup today.

After reviewing the tow bill I have several problems.

1. The tractor trailer recovery 21 hours. After the units where up righted it appears the HD recovery trucks just sat. Why where the units not towed to the yard. Waynes won't answer the question but states 21 hours.
2. I was told a lot of the equipment was sub contracted so they can charge extra money. Need a list of sub contracted equipment.
3. Air bags for $8,000.00. The tow company did not know how to use air bags, straps, angle iron to protect the corners which tore the trailer into 3 pieces. I have done over 150 air bag recoveries and was a trainer in CA and I have NEVER destroyed a trailer. I sent to other tow companies and they all agree with my assessment of the recovery. The tow company destroyed the trailer and wasted a lot of time.
4. Labor rates $150.00 per hour is about double the going rate. Then they lower the rate to $50.00 which is about correct.
5. Transfer cargo $750.00. They are already charging labor. What the $750.00 for? Then on page 2 there is another $750.00 charge.
6. Need a copy of the sublet bill for $1,000.00 additional labor 7. Tract hoe can be rented for about $350.00 a day.
8. Why did the tow co bring all the signs and cones out. Doesn't DOT or the state police cover this?
9. Cones $50.00 each. They cost between $13.00 and $19.00.
10. OSHA Certifies radio equipment. $1795.00 11. Called yesterday and today to get the cargo and I have to talk with Jeff only. No return call.

I have transportation spill solution working with me on the haz mat portion of the bill with I have concerns with. .

--
Robert Watson
President, Recovery Resolution Specialists

704-807-1733 www.recoveryresolutionspecialists.com

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King, Nicklous W.

From: Bob Watson [towinsurance@gmail.com]
Sent: Wednesday, February 24, 2016 1:46 PM
To: King, Nicklous W.
Subject: Re: Wayne Automotive Invoice

Thanks

On 2/24/16, 1:42 PM 1:42 PM, King, Nicklous W. wrote:

Lieutenant Nicklous W. King
South Carolina Highway Patrol - Troop 7 Headquarters
South Carolina Department of Public Safety
1391 Middleton Street
Orangeburg, SC 29115
803-531-6844 (Office)
803-531-6820 (Fax)
nwking@scdps.gov
www.scdps.gov/schp

--
Robert Watson
President, Recovery Resolution Specialists

704-807-1733 www.recoveryresolutionspecialists.com

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King, Nicklous W.

From: Bob Watson [towinsurance@gmail.com]
Sent: Friday, February 26, 2016 9:42 AM
To: King, Nicklous W.
Subject: Fwd: 2nd estimate on waynes towing
Attachments: 0000001.pdf

Estimate on the cleanup of the cargo and oil spill from and out side source

-------- Forwarded Message --------
Subject:2nd estimate on waynes towing
Date:Fri, 26 Feb 2016 14:06:44 +0000
From:Hasib Rasoul <hasib@transportationspillsolutions.com>
To:'Bob Watson' <towinsurance@gmail.com>

Hasib Rasoul
Transportation Spill Solutions
P.O. Box 1067
Athens, GA 30603
877-887-7455
706-614-3877 Cell
888-263-7106 Fax

From: Travis Young [mailto:Travis.Young@iceresponse24.com]
Sent: Tuesday, February 23, 2016 10:29 AM
To: Hasib Rasoul
Subject: Invoice

Here you go

From: Erica Kendrick
Sent: Tuesday, February 23, 2016 10:25 AM
To: Travis Young <Travis.Young@iceresponse24.com>
Subject:

Sincerely,
Erica Kendrick

000949

IntraCoastal
Environmental, LLC

24hr Emergency Spill Response & Industrial Services

8408 Benjamin Rd
Tampa, FL 33634

(24 hr) 855.ICE.SPILL (423.7745)
(office) 912-341-6444
(fax) 912-963-9884
(email) erica.kendrick@iceresponse24.com
(web) www.iceresponse24.com

000959

IntraCoastal Environmental, LLC

INVOICE

ICE - Savannah
8408 Benjamin Road
Tampa, FL, 33634
Web: www.iceresponse24.com

Reference Nbr.:	0000001
Date:	23-Feb-2016
Due Date:	24-Mar-2016
Customer ID:	TRANSSPILL
Currency:	USD
Description:	Truck Wreck Clean Up on I-20, N. Augusta, @ Savannah River

BILL TO:	SHIP TO:
Transportation Spill Solutions P.O Box 1067 Athens GA 30603 UNITED STATES Attn: Kevin Boyer	Transportation Spill Solutions P.O Box 1067 Athens GA 30603 UNITED STATES Attn: Kevin Boyer

CUSTOMER REF. NBR.	TERMS	CONTACT
	Due Net 30 Days	

NO.	ITEM	QTY.	UOM	UNIT PRICE	DISC.	EXTENDED PRICE
1	Supervisor (OT)	9.00	HOUR	82.5000	0%	742.50
2	Technician (1) (OT)	9.00	HOUR	52.5000	0%	472.50
3	Technician (2) (OT)	9.00	HOUR	52.5000	0%	472.50
4	Crew Truck	9.00	EACH	25.0000	0%	225.00
5	ER Trailer	9.00	HOUR	45.0000	0%	405.00
6	55 gal. Drums	5.00	EACH	50.0000	0%	250.00
7	Absorbent Powder	2.00	EACH	30.0000	0%	60.00
8	Portland Cement	1.00	EACH	25.0000	0%	25.00
9	Manifest	1.00	EACH	1.0000	0%	1.00
10	Drum Labels	5.00	EACH	1.0000	0%	5.00
11	Waste Disposal	5.00	EACH	60.0000	0%	300.00
12	Waste Transportation	1.00	EACH	150.0000	0%	150.00

NOTE:

Sales Total:	3,108.50
Tax Total:	0.00
Discount Total:	0.00
Total (USD):	3,108.50

16

000951

King, Nicklous W.

From: Bob Watson [towinsurance@gmail.com]
Sent: Friday, February 26, 2016 9:43 AM
To: King, Nicklous W.
Subject: Fwd: FW: Custard Report - First Call Projected Costs
Attachments: 61A169404 - Custard Report.PDF; T.S.S - Est 207.pdf; T.S.S - Revised Est 208.pdf

2nd estimate.

-------- Forwarded Message --------
Subject:FW: Custard Report - First Call Projected Costs
Date: Fri, 26 Feb 2016 13:55:48 +0000
From: Hasib Rasoul <hasib@transportationspillsolutions.com>
To:'Bob Watson' <towinsurance@gmail.com>

Hasib Rasoul
Transportation Spill Solutions
P.O. Box 1067
Athens, GA 30603
877-887-7455
706-614-3877 Cell
888-263-7106 Fax

From: Rebecca Brent [mailto:rbrent@firstcallenvironmental.com]
Sent: Friday, February 26, 2016 8:50 AM
To: Hasib Rasoul
Subject: Custard Report - First Call Projected Costs
Importance: High

Hello Hasib,

Jim forwarded me some photos of a Premier Transportation incident that occurred in Aiken, SC. I talked with my supervisors to discuss the scope of work. From the photos, the environmental portion of this incident looks quite simple – FCE would have placed pads beneath the leaking tank and to collect any freestanding fuel/oil. Granular absorbents would have been applied to the impacted roadway and worked in thoroughly by hand. Since it was on a bridge, time would be of the essence, and FCE would attempt to get the roadway re-opened as soon as possible. We assumed we would use 5 bags of oil dry. All spent absorbents would be collected and containerized into 2 drums for disposal. Therefore, Estimate 207 reflects the standard 4 hour minimum, generating two drums of impacted soil/absorbents/debris, 1 sup, 2 techs, and disposal of the two drums at WM in Elgin, SC. It also includes the standard report fee.

Additionally, I included a second estimate, Estimate 208. This estimate reflects the cost for what it would be for FCE to conduct the minor spill cleanup (described above) in addition to off-loading the dog food from the damaged trailer onto a new trailer. I based these numbers off of similar incidents we have managed in the past. Since the trailer was completely full, and some of the food had to be re-palletized, I assumed we would need 1 supervisor 3 technicians, and 1 operator

(with a fork lift) for 8 hours, and two vehicles. The same amount of materials (2 drums, 5 stay dri) would be used and disposal would remain the same.

Please be advised that neither of these estimates include down time. For example, it does not account for the time it would take for the damaged vehicle to be hauled offsite or for the replacement tractor to be positioned for re-loading.

Please let me know if you have any questions or need adjustments made. Have a great day!

Rebecca Brent
FCE Project Manager
(804) 385-8292

From: Jim Gorey [mailto:jgorey@firstcallenvironmental.com]
Sent: Tuesday, February 23, 2016 11:52 AM
To: Rebecca Brent
Subject: Fwd: RE: First Call

Sent from my Verizon Wireless 4G LTE smartphone
-------- Original message --------
From: Hasib Rasoul <hasib@transportationspillsolutions.com>
Date: 2/23/2016 11:21 AM (GMT-05:00)
To: 'Jim Gorey' <jgorey@firstcallenvironmental.com>
Subject: RE: First Call

Hasib Rasoul

Transportation Spill Solutions

P.O. Box 1067

Athens, GA 30603

877-887-7455

706-614-3877 Cell

888-263-7106 Fax

From: Jim Gorey [mailto:jgorey@firstcallenvironmental.com]
Sent: Tuesday, February 23, 2016 10:23 AM
To: Hasib Rasoul
Subject: Fwd: First Call

Good Morning!

Just a quick note on future plans for First Call. Within three months First Call will be launching a response location in Raleigh, NC. I feel this location will close the gap in our current coverage area allowing us to better serve our customers. This will bring First Call Response locations to 10. Additionally First Call is in the process of placing rapid response units throughout our coverage area to further increase coverage efficiency, response times and overall customer service. Main locations would then include:

Richmond, VA

Harrisonburg, VA

Roanoke, VA

Chesapeake, VA

Charlotte, NC

Raleigh, NC

Columbia, SC

Knoxville, TN

Baltimore, MD

Woodbridge, NJ

As always please feel free to contact me at anytime with questions or concerns. Thanks very much.

Jim Gorey

CEO

First Call Environmental

First Call Environmental, LLC
P.O. Box 6035
Ashland, VA 23005

Estimate

Date	Estimate #
2/25/2016	207

Customer

Transporation Spill Solutions
P. O. Box 1067
Athens, GA 30603

Description	Qty	Rate	Project Total
SERVICE DESCRIPTION:			
Regular Time Labor - Project Manager	4		0.00
Regular Time Labor - Hazardous Materials Technician	4		0.00
Regular Time Labor - Hazardous Materials Technician	4		0.00
Regular Time Labor - Field Support	2		0.00
- Safety brief and mobilization to site			
- Site investigation			
- Took photographs and field notes			
- Mobilize equipment to site			
- Conducted remediation and restoration activities			
- Sample collection and chain of custody preparation			
- Labeled and staged waste for transportation			
- Consultation with client throughout process			
- Demobilization to office			
- Review / Update project file			
Support Vehicles	1		0.00
Mileage to and from site	110		0.00
20-24 ft. Response Trailer Including Hand Tools	1		0.00
First Call Initial Response Program		990.00	990.00
Sta-Dri (50 lb. Bag)	5	17.00	85.00
Sorbent Pads (18" X 18"-100 per bale)	1	110.00	110.00
55 Gallon Steel Reconditioned Drum	2	94.50	189.00
SERVICE DESCRIPTION: Transportation of contaminated materials to disposal facility			
Regular Time Labor - Hazardous Materials Technician	1	50.00	50.00
Regular Time Labor - Field Support	1	40.00	40.00
- Safety brief and mobilization to site			
- Non-haz waste transportation to treatment facility			
- Demobilization to office			
- Review / Update project file			
Support Vehicles	1	100.00	100.00
Mileage to and from site	40	0.60	24.00
Solid Disposal - Contaminated materials	2	110.00	220.00

Total

000956

21

First Call Environmental, LLC
P.O. Box 6035
Ashland, VA 23005

Estimate

Date	Estimate #
2/25/2016	207

Customer
Transporation Spill Solutions P. O. Box 1067 Athens, GA 30603

Description	Qty	Rate	Project Total
Report Preparation and Delivery	1	250.00	250.00
A discount of $ 106.80 will be issued ONLY if payment is received before . For a total of $ 1,951.20			
Total			$2,058.00

000957

22

First Call Environmental, LLC
P.O. Box 6035
Ashland, VA 23005

Estimate

Date	Estimate #
2/25/2016	208

Customer

Transporation Spill Solutions
P. O. Box 1067
Athens, GA 30603

Description	Qty	Rate	Project Total
SERVICE DESCRIPTION:			
Regular Time Labor - Project Manager	4		0.00
Regular Time Labor - Hazardous Materials Technician	4		0.00
Regular Time Labor - Hazardous Materials Technician	4		0.00
Regular Time Labor - Field Support	2		0.00
- Safety brief and mobilization to site - Site investigation - Took photographs and field notes - Mobilize equipment to site - Conducted remediation and restoration activities - Sample collection and chain of custody preparation - Labeled and staged waste for transportation - Consultation with client throughout process - Demobilization to office - Review / Update project file			
Support Vehicles	1		0.00
Mileage to and from site	110		0.00
20-24 ft. Response Trailer Including Hand Tools	1		0.00
First Call Initial Response Program		990.00	990.00
Regular Time Labor - Project Manager	4	70.00	280.00
Regular Time Labor - Hazardous Materials Technician	4	50.00	200.00
Regular Time Labor - Hazardous Materials Technician	4	50.00	200.00
Regular Time Labor - Hazardous Materials Technician	8	50.00	400.00
Regular Time Labor - Equipment Operator	8	50.00	400.00
Support Vehicles	1	100.00	100.00
Mileage to and from site	110	0.60	66.00
Mobilization/Demobilization Equipment	1	360.00	360.00
Fork Lift	1	825.00	825.00
Sta-Dri (50 lb. Bag)	5	17.00	85.00
Sorbent Pads (18" X 18"-100 per bale)	1	110.00	110.00
55 Gallon Steel Reconditioned Drum	2	94.50	189.00
SERVICE DESCRIPTION: Transportation of contaminated materials to disposal facility			
Regular Time Labor - Hazardous Materials Technician	1	50.00	50.00

Total

23

000958

First Call Environmental, LLC
P.O. Box 6035
Ashland, VA 23005

Estimate

Date	Estimate #
2/25/2016	208

Customer

Transporation Spill Solutions
P. O. Box 1067
Athens, GA 30603

Description	Qty	Rate	Project Total
Regular Time Labor - Field Support - Safety brief and mobilization to site - Non-haz waste transportation to treatment facility - Demobilization to office - Review / Update project file	1	40.00	40.00
Support Vehicles	1	100.00	100.00
Mileage to and from site	40	0.60	24.00
Solid Disposal - Contaminated materials	2	110.00	220.00
Report Preparation and Delivery	1	250.00	250.00
A discount of $ 389.90 will be issued ONLY if payment is received before . For a total of $ 4,499.10			

Total $4,889.00

24

000959

IntraCoastal Environmental, LLC

ICE - Savannah
8408 Benjamin Road
Tampa, FL, 33634
Web: www.iceresponse24.com

INVOICE

Reference Nbr.:	**0000001**
Date:	23-Feb-2016
Due Date:	24-Mar-2016
Customer ID:	TRANSSPILL
Currency:	USD
Description:	Truck Wreck Clean Up on I-20, N. Augusta, @ Savannah River

BILL TO:	SHIP TO:
Transportation Spill Solutions P.O Box 1067 Athens GA 30603 UNITED STATES Attn: Kevin Boyer	Transportation Spill Solutions P.O Box 1067 Athens GA 30603 UNITED STATES Attn: Kevin Boyer

CUSTOMER REF. NBR.	TERMS	CONTACT
	Due Net 30 Days	

NO.	ITEM	QTY.	UOM	UNIT PRICE	DISC.	EXTENDED PRICE
1	Supervisor (OT)	9.00	HOUR	82.5000	0%	742.50
2	Technician (1) (OT)	9.00	HOUR	52.5000	0%	472.50
3	Technician (2) (OT)	9.00	HOUR	52.5000	0%	472.50
4	Crew Truck	9.00	EACH	25.0000	0%	225.00
5	ER Trailer	9.00	HOUR	45.0000	0%	405.00
6	55 gal. Drums	5.00	EACH	50.0000	0%	250.00
7	Absorbent Powder	2.00	EACH	30.0000	0%	60.00
8	Portland Cement	1.00	EACH	25.0000	0%	25.00
9	Manifest	1.00	EACH	1.0000	0%	1.00
10	Drum Labels	5.00	EACH	1.0000	0%	5.00
11	Waste Disposal	5.00	EACH	60.0000	0%	300.00
12	Waste Transportation	1.00	EACH	150.0000	0%	150.00

NOTE:

Sales Total:	3,108.50
Tax Total:	0.00
Discount Total:	0.00
Total (USD):	**3,108.50**

25

000960

King, Nicklous W.

From: Bob Watson [towinsurance@gmail.com]
Sent: Monday, March 07, 2016 2:50 PM
To: King, Nicklous W.; Hughes, Clifton B.
Subject: Wayne's towing

We where forced to pay $48,000.00 to get the cargo today.

Complaint is still on.

Bob

--
Robert Watson
President, Recovery Resolution Specialists

704-807-1733 www.recoveryresolutionspecialists.com

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King, Nicklous W.

From: Bob Watson [towinsurance@gmail.com]
Sent: Tuesday, June 14, 2016 4:31 PM
To: King, Nicklous W.
Subject: Re: Official complaint on Waynes towing Claim 61a169404 Premier Transporation

Officer King have you reviewed this file or is it closed?

On 2/19/16, 12:17 PM 12:17 PM, Karen Coppolino wrote:
> Are you saying they are now NOT going to release our cargo?
> _____
> From: Insurance Group <towinsurance@gmail.com>
> Sent: Friday, February 19, 2016 12:15 PM
> To: nwking@SCDPS.GOV; Karen Coppolino; Lucas Sentry; Haz Mat; Hughes, Clifton B.
> Subject: Re: Official complaint on Waynes towing Claim 61a169404
> Premier Transporation
>
> This is an official complaint Tow co will not release the cargo
> Bob
>
> Sent from my iPhone
>
>> On Feb 19, 2016, at 11:33 AM, Bob Watson <towinsurance@gmail.com> wrote:
>>
>> Officer King, I have called the tow company for 2 days and the owner (Jeff is the only one that is to talk with me) has not called me back. I cannot get an answer on the cargo trying to get it pickup today.
>>
>> After reviewing the tow bill I have several problems.
>>
>> 1. The tractor trailer recovery 21 hours. After the units where up righted it appears the HD recovery trucks just sat. Why where the units not towed to the yard. Waynes won't answer the question but states 21 hours.
>> 2. I was told a lot of the equipment was sub contracted so they can charge extra money. Need a list of sub contracted equipment.
>> 3. Air bags for $8,000.00. The tow company did not know how to use air bags, straps, angle iron to protect the corners which tore the trailer into 3 pieces. I have done over 150 air bag recoveries and was a trainer in CA and I have NEVER destroyed a trailer. I sent to other tow companies and they all agree with my assessment of the recovery. The tow company destroyed the trailer and wasted a lot of time.
>> 4. Labor rates $150.00 per hour is about double the going rate. Then they lower the rate to $50.00 which is about correct.
>> 5. Transfer cargo $750.00. They are already charging labor. What the $750.00 for? Then on page 2 there is another $750.00 charge.
>> 6. Need a copy of the sublet bill for $1,000.00 additional labor 7.
>> Tract hoe can be rented for about $350.00 a day.
>> 8. Why did the tow co bring all the signs and cones out. Doesn't DOT or the state police cover this?
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>> 10. OSHA Certifies radio equipment. $1795.00 11. Called yesterday
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>>
>>

>> I have transportation spill solution working with me on the haz mat portion of the bill with I have concerns with. .
>>
>> --
>> Robert Watson
>> President, Recovery Resolution Specialists
>>
>> 704-807-1733 www.recoveryresolutionspecialists.com
>> _____
>>
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>>

--
Robert Watson
President, Recovery Resolution Specialists

704-807-1733 www.recoveryresolutionspecialists.com

_____

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King, Nicklous W.

From: Bob Watson [towinsurance@gmail.com]
Sent: Tuesday, June 14, 2016 6:08 PM
To: King, Nicklous W.
Subject: Re: Official complaint on Waynes towing Claim 61a169404 Premier Transporation

Thanks Bob

On 6/14/16, 5:49 PM 5:49 PM, King, Nicklous W. wrote:
> I completed my investigation and it was sent to our headquarters a couple of months of ago. At this time he is appealing his discipline from the department.
>
> -----Original Message-----
> From: Bob Watson [mailto:towinsurance@gmail.com]
> Sent: Tuesday, June 14, 2016 4:31 PM
> To: King, Nicklous W.
> Subject: Re: Official complaint on Waynes towing Claim 61a169404
> Premier Transporation
>
> Officer King have you reviewed this file or is it closed?
>
>
> On 2/19/16, 12:17 PM 12:17 PM, Karen Coppolino wrote:
>> Are you saying they are now NOT going to release our cargo?
>> _____
>> From: Insurance Group <towinsurance@gmail.com>
>> Sent: Friday, February 19, 2016 12:15 PM
>> To: nwking@SCDPS.GOV; Karen Coppolino; Lucas Sentry; Haz Mat; Hughes, Clifton B.
>> Subject: Re: Official complaint on Waynes towing Claim 61a169404
>> Premier Transporation
>>
>> This is an official complaint Tow co will not release the cargo
>> Bob
>>
>> Sent from my iPhone
>>
>>> On Feb 19, 2016, at 11:33 AM, Bob Watson <towinsurance@gmail.com> wrote:
>>>
>>> Officer King, I have called the tow company for 2 days and the owner (Jeff is the only one that is to talk with me) has not called me back. I cannot get an answer on the cargo trying to get it pickup today.
>>>
>>> After reviewing the tow bill I have several problems.
>>>
>>> 1. The tractor trailer recovery 21 hours. After the units where up righted it appears the HD recovery trucks just sat. Why where the units not towed to the yard. Waynes won't answer the question but states 21 hours.
>>> 2. I was told a lot of the equipment was sub contracted so they can charge extra money. Need a list of sub contracted equipment.
>>> 3. Air bags for $8,000.00. The tow company did not know how to use air bags, straps, angle iron to protect the corners which tore the trailer into 3 pieces. I have done over 150 air bag recoveries and was a trainer in CA and I have NEVER destroyed a trailer. I sent to other tow companies and they all agree with my assessment of the recovery. The tow company destroyed the trailer and wasted a lot of time.

>>> 4. Labor rates $150.00 per hour is about double the going rate. Then they lower the rate to $50.00 which is about correct.
>>> 5. Transfer cargo $750.00. They are already charging labor. What the $750.00 for? Then on page 2 there is another $750.00 charge.
>>> 6. Need a copy of the sublet bill for $1,000.00 additional labor 7.
>>> Tract hoe can be rented for about $350.00 a day.
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>>> and today to get the cargo and I have to talk with Jeff only. No return call.
>>>
>>>
>>> I have transportation spill solution working with me on the haz mat portion of the bill with I have concerns with. .
>>>
>>> --
>>> Robert Watson
>>> President, Recovery Resolution Specialists
>>>
>>> 704-807-1733 www.recoveryresolutionspecialists.com
>>> _____
>>>
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>>> Recovery Resolution Specialists recommends you scan all attachments
>>> with antivirus software, as we accept no responsibiity for damages
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>>>
> --
> Robert Watson
> President, Recovery Resolution Specialists
>
> 704-807-1733 www.recoveryresolutionspecialists.com
> _____
>
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>

--
Robert Watson
President, Recovery Resolution Specialists

704-807-1733 www.recoveryresolutionspecialists.com
_____

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