

Docket No. TV-190395 - Vol. I

**Washington Utilities and Transportation Commission v.
GBU Enterprises GRP., Inc.**

July 24, 2019



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Page 1

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND) DOCKET NO. TV-190395
TRANSPORTATION COMMISSION,)
)
 Complainant,)
)
 vs.)
)
GBU ENTERPRISES GRP, INC,)
D/B/A GOLDEN VALLEY VAN)
LINES,)
)
 Respondent.)

BRIEF ADJUDICATIVE PROCEEDING, VOLUME I
Pages 1-15
ADMINISTRATIVE LAW JUDGE LAURA CHARTOFF

July 24, 2019
1:33 p.m.

Washington Utilities and Transportation Commission
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Lacey, Washington 98503

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Page 2

1 A P P E A R A N C E S
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18 ALSO PRESENT:
19
20 JASON SHARP
21 Motor Carrier Safety Supervisor
22
23 * * * * *
24
25

Page 3

1 EXAMINATION INDEX
2 JASON SHARP PAGE
3 By Mr. Fukano. 6
4
5 EXHIBIT INDEX
6 EXHIBITS FOR ADMISSION PAGE
7 JS-1 Jason Sharp Declaration 10
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
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Page 4

1 LACEY, WASHINGTON; JULY 24, 2019
2 1:33 P.M.
3 --000--
4 P R O C E E D I N G S
5
6 JUDGE CHARTOFF: Let's be on the record.
7 Good afternoon. This is Docket TV-190395, which is
8 captioned Washington Utilities and Transportation
9 Commission, complainant, versus GBU Enterprises Group,
10 Inc., doing business as Golden Valley Van Lines,
11 respondent.
12 My name is Laura Chartoff. I am the
13 administrative law judge presiding over today's brief
14 adjudicative proceeding.
15 So today is Wednesday, July 24th, 2019, and
16 the time is 1:33 p.m.
17 So let's start by taking appearances
18 starting with short appearance from Staff.
19 MR. FUKANO: Good afternoon, Judge Chartoff.
20 I am Harry Fukano, Assistant Attorney General, with the
21 Utilities and Transportation Commission division, and I
22 am here today on behalf of Commission Staff.
23 JUDGE CHARTOFF: Okay. And for the Company?
24 Is the Company present?
25 Okay. Hearing nothing, the Company has

Page 5

1 failed to appear, how would you like to proceed?
 2 MR. FUKANO: Staff would ask that the
 3 Commission find the Company, GBU, in default under
 4 RCW 34.05.440 and WAC 480-07-450 for failure to appear
 5 at the time and place set for the hearing, and Staff
 6 would request that the Commission proceed with the
 7 hearing and resolve the issues before it.
 8 JUDGE CHARTOFF: Okay. And have you had any
 9 recent contact with the Company?
 10 MR. FUKANO: No.
 11 JUDGE CHARTOFF: Okay. All right. I find
 12 GBU Enterprises Group, Inc., doing business as Golden
 13 Valley Van Lines in default and will issue a written
 14 order reflecting this finding. We will proceed without
 15 the Company.
 16 So, Mr. Fukano, you may proceed when you're
 17 ready.
 18 MR. FUKANO: Thank you. And I have placed
 19 two copies of proposed Exhibit JS-1 on the bench.
 20 JUDGE CHARTOFF: Thank you.
 21 MR. FUKANO: Commission WACs 480-15-560 and
 22 480-15-570 require household goods carriers to comply
 23 with various safety requirements including standards
 24 adopted from 49 Code of Federal Regulations.
 25 Staff intends to introduce evidence that

Page 6

1 shows that GBU has violated Commission safety
 2 requirements based on the results of a prior inspection
 3 conducted by the Federal Motor Carrier Safety
 4 Administration. Staff will introduce evidence through
 5 its investigator, Mr. Jason Sharp. Thank you.
 6 And at this time, Staff would like to call
 7 Mr. Jason Sharp.
 8
 9 JASON SHARP, witness herein, having been
 10 first duly sworn on oath,
 11 was examined and testified
 12 as follows:
 13
 14 JUDGE CHARTOFF: Thank you.
 15
 16 EXAMINATION
 17 BY MR. FUKANO:
 18 Q. Would you please state your name and spell your
 19 last name for the record.
 20 A. Jason Sharp, S-h-a-r-p.
 21 Q. What is your current position?
 22 A. I am the motor carrier safety supervisor.
 23 Q. How -- what are the respons- -- or your
 24 responsibilities in that position?
 25 A. My responsibilities include assigning safety

Page 7

1 investigations and reviewing the work of the motor
 2 carrier safety investigations team here at the
 3 Commission.
 4 Q. How long have you been in this position?
 5 A. I've been the motor carrier supervisor for over
 6 a year and a half now.
 7 Q. I'd like to talk about the matter at issue in
 8 today's hearing.
 9 Are you familiar with GBU?
 10 A. Yes, I am.
 11 Q. And how did you become aware of the present
 12 matter involving GBU?
 13 A. I received email notification from Jeff James,
 14 the Washington District Administrator of the Federal
 15 Motor Carrier Safety Administration, that an
 16 investigator under his supervision had recently placed
 17 GBU Enterprises out of service following an
 18 unsatisfactory safety rating.
 19 Q. And I am -- or I'm showing you what has been
 20 labeled as proposed Exhibit JS-1. What is this exhibit?
 21 A. This exhibit is my declaration into this matter.
 22 Q. And you are familiar with it?
 23 A. Yes, I am.
 24 Q. Did you create this exhibit?
 25 A. Yes.

Page 8

1 Q. Do you have any changes that you would like to
 2 make to this exhibit?
 3 A. No.
 4 Q. Would you please turn to Attachment A. What is
 5 Attachment A?
 6 A. Attachment A is the safety investigation report
 7 completed by the FMCSA.
 8 Q. And what is the date associated with that
 9 report?
 10 A. The review date listed is February 6th, 2019.
 11 Q. And who does the report pertain to?
 12 A. GBU Enterprises.
 13 Q. Does the report find any serious violations?
 14 A. Yes, it does. It finds several serious
 15 violations.
 16 Q. And would you please state those violations for
 17 the record?
 18 A. Yes. So the violations of a serious nature
 19 categorized as acute or critical lead to the safety
 20 fitness evaluation of a company. It is completed the
 21 same way with the FMCSA as it is with the Utilities and
 22 Transportation Commission. And the Company was found to
 23 have an acute violation for failing to implement a
 24 random controlled substance and alcohol testing program.
 25 It also had four critical vi- -- four separate

Page 9

1 types of critical violations identified ranging from
 2 using drivers prior to receiving a negative
 3 preemployment controlled substance test; failing to
 4 maintain inquiries into a driver's driving record and
 5 the qualification file; failing to require drivers to
 6 prepare a record of duty status using the appropriate
 7 method, and also using commercial motor vehicles that
 8 had not been periodically inspected.

9 **Q. Who conducted the investigation detailed in the**
 10 **February report?**

11 A. Federal Investigator Chad Liderway [phonetic].

12 **Q. Are the safety standards enforced by FMCSA in**
 13 **respect to -- different from the safety standards**
 14 **enforced by the Commission?**

15 A. No, they are not. The Commission adopts the
 16 standards and processes.

17 **Q. Would the critical and acute violations found in**
 18 **the report also constitute violation of the Commission's**
 19 **motor carrier safety standards?**

20 A. Yes, they would.

21 **Q. In your experience, does the -- does Commission**
 22 **motor carrier safety staff rely on information gathered**
 23 **by FMCSA?**

24 A. Yes.

25 **Q. Would you please turn to Attachment B. What is**

Page 10

1 **Attachment B?**

2 A. Attachment B is the letter that was sent to GBU
 3 Enterprises from the Federal Motor Carrier Safety
 4 Administration notifying them that it had 60 days to
 5 receive an upgrade to its proposed unsatisfactory safety
 6 rating following the safety investigation. Within this
 7 notice, it also notifies the Company that, under 49 CFR
 8 385.13, that when a motor carrier receives a final
 9 safety rating of unsatisfactory, that it is prohibited
 10 from operating a commercial motor vehicle in interstate
 11 and intrastate commerce.

12 MR. FUKANO: At this time, I would move to
 13 admit Exhibit JS-1 and its attachments into evidence.

14 JUDGE CHARTOFF: Okay. The exhibit marked
 15 JS-1 and its attachments are admitted into evidence.
 16 (Exhibit JS-1 admitted.)

17 MR. FUKANO: Thank you.

18 BY MR. FUKANO:

19 **Q. Does Staff have a recommendation as to what**
 20 **action the Commission should take in response to the**
 21 **violations detailed in its report?**

22 A. Yes, Staff's recommendation is to recognize the
 23 out-of-service rating put in place by the Federal Motor
 24 Carrier Safety Administration effectively putting the
 25 USDOT number out of service and to cancel the

Page 11

1 provisional household goods permit that the Company
 2 currently holds with the Commission.

3 MR. FUKANO: Thank you. No further
 4 questions.

5 JUDGE CHARTOFF: Thank you. I have a
 6 question.

7 So is -- is the Company still allowed to or
 8 eligible to request an upgrade to their safety rating?

9 MR. SHARP: My understanding is yes, through
 10 the Federal Motor Carrier Safety Administration.

11 JUDGE CHARTOFF: Okay. Okay. I think
 12 that's all I have. Okay.

13 MR. FUKANO: Can I ask a brief follow-up
 14 question?

15 JUDGE CHARTOFF: Sure.

16 MR. FUKANO: Thank you.

17

18 E X A M I N A T I O N

19 BY MR. FUKANO:

20 **Q. For the purpose of the investigation detailed in**
 21 **the February report, has the proposed safety rating**
 22 **become final?**

23 A. It has, and identified in Exhibit B, the Company
 24 was also notified of its right to appeal any of the
 25 violations discovered or to request administrative

Page 12

1 review of the report and did not do so.

2 JUDGE CHARTOFF: Thank you.

3 MR. FUKANO: Thank you. Nothing further
 4 from Staff.

5 JUDGE CHARTOFF: Okay. Thank you for your
 6 testimony. You are excused.

7 Okay. Is -- is there anything else before
 8 we go off the record?

9 MR. FUKANO: No, unless you would care for a
 10 brief closing?

11 JUDGE CHARTOFF: If you would like to make a
 12 closing, you can.

13 MR. FUKANO: Sure. I will just summarize
 14 the argument.

15 JUDGE CHARTOFF: Okay.

16 MR. FUKANO: On February 6th, 2019, the
 17 FMCSA investigated GBU and found several critical --
 18 several critical violations and one acute violation,
 19 which include violations of 49 CFR 382, 49 CFR 391, 49
 20 CFR 395, and 49 CFR 396 as described in the declaration
 21 of Jason Sharp.

22 Under WAC 480-15-450(1)(e), the Commission
 23 may involuntarily cancel a household goods carrier's
 24 permit for failing to comply with applicable safety laws
 25 and Commission rules pertaining to the operation of

1 household goods carriers, including safety requirements
 2 set in law or rule.
 3 Through WAC 480-15-999, the Commission
 4 adopted 49 CFR. WAC 480-15-350(3)(b), which relates to
 5 equipment safety -- equipment safety requirements
 6 requires household goods carrier to comply with 49 CFR
 7 parts 385, 392, and 396. Similarly, WAC
 8 480-15-570(1)(c), which relates to driver safety
 9 requirements, requires a household goods carrier to
 10 comply with 49 CFR parts 382, 385, 391 and 395.
 11 Therefore, insofar as the violations found
 12 in the FMCSA report would constitute violations of WAC
 13 480-15-560 and 480-15-570 pertaining to safety
 14 requirements. Those violations provide the Commission a
 15 basis to involuntarily cancel the Commission's operating
 16 authority. Consequently, Commission Staff requests that
 17 the Commission cancel GBU's operating authority. Thank
 18 you.
 19 JUDGE CHARTOFF: Thank you. Thank you for
 20 coming here today, and I will take this under advisement
 21 and make a decision within ten days.
 22 MR. FUKANO: Thank you.
 23 JUDGE CHARTOFF: Anything else?
 24 MR. FUKANO: None from Staff.
 25 JUDGE CHARTOFF: Okay. We are adjourned.

1 CERTIFICATE
 2
 3 STATE OF WASHINGTON
 4 COUNTY OF THURSTON
 5
 6 I, Tayler Garlinghouse, a Certified Shorthand
 7 Reporter in and for the State of Washington, do hereby
 8 certify that the foregoing transcript is true and
 9 accurate to the best of my knowledge, skill and ability.
 10
 11
 12 
 13 Tayler Garlinghouse, CCR 3358
 14
 15
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1 (Adjourned at 1:45 p.m.)
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 19
 20
 21
 22
 23
 24
 25

| A | B | | | |
|---------------------------|----------------------------|-----------------------------|----------------------------|----------------------------|
| ability 15:9 | B 9:25 10:1,2 11:23 | commercial 9:7 | detailed 9:9 10:21 | February 8:10 9:10 |
| accurate 15:9 | based 6:2 | 10:10 | 11:20 | 11:21 12:16 |
| action 10:20 | basis 13:15 | Commission 1:2,4 | different 9:13 | Federal 5:24 6:3 |
| acute 8:19,23 9:17 | behalf 4:22 | 1:18 2:3,7 4:9,21 | discovered 11:25 | 7:14 9:11 10:3,23 |
| 12:18 | bench 5:19 | 4:22 5:3,6,21 6:1 | District 7:14 | 11:10 |
| adjourned 13:25 | best 15:9 | 7:3 8:22 9:14,15 | division 4:21 | file 9:5 |
| 14:1 | Box 2:9 | 9:21 10:20 11:2 | Docket 1:4 4:7 | final 10:8 11:22 |
| adjudicative 1:12 | brief 1:12 4:13 | 12:22,25 13:3,14 | doing 4:10 5:12 | find 5:3,11 8:13 |
| 4:14 | 11:13 12:10 | 13:16,17 | driver 13:8 | finding 5:14 |
| Administration 6:4 | Buell 1:22 | Commission's 9:18 | driver's 9:4 | finds 8:14 |
| 7:15 10:4,24 | business 4:10 5:12 | 13:15 | drivers 9:2,5 | first 6:10 |
| 11:10 | | company 4:23,24 | driving 9:4 | fitness 8:20 |
| administrative | C | 4:25 5:3,9,15 8:20 | duly 6:10 | FMCSA 8:7,21 |
| 1:14 2:2 4:13 | C 2:1 4:4 15:1,1 | 8:22 10:7 11:1,7 | duty 9:6 | 9:12,23 12:17 |
| 11:25 | call 6:6 | 11:23 | | 13:12 |
| Administrator 7:14 | cancel 10:25 12:23 | complainant 1:5 | E | follow-up 11:13 |
| ADMISSION 3:6 | 13:15,17 | 4:9 | E 2:1,1 4:4,4 6:16 | following 7:17 10:6 |
| admit 10:13 | captioned 4:8 | completed 8:7,20 | 11:18 15:1,1 | follows 6:12 |
| admitted 10:15,16 | care 12:9 | comply 5:22 12:24 | effectively 10:24 | foregoing 15:8 |
| adopted 5:24 13:4 | carrier 2:13 6:3,22 | 13:6,10 | eligible 11:8 | found 8:22 9:17 |
| adopts 9:15 | 7:2,5,15 9:19,22 | conducted 9:9 | email 7:13 | 12:17 13:11 |
| advisement 13:20 | 10:3,8,24 11:10 | conducted 6:3 | enforced 9:12,14 | four 8:25,25 |
| afternoon 4:7,19 | 13:6,9 | Consequently | Enterprises 1:7 4:9 | Fourth 1:22 |
| alcohol 8:24 | carrier's 12:23 | 13:16 | 5:12 7:17 8:12 | Fukano 2:8 3:3 |
| allowed 11:7 | carriers 5:22 13:1 | constitute 9:18 | 10:3 | 4:19,20 5:2,10,16 |
| appeal 11:24 | categorized 8:19 | 13:12 | equipment 13:5,5 | 5:18,21 6:17 |
| appear 5:1,4 | CCR 1:21 15:13 | contact 5:9 | evaluation 8:20 | 10:12,17,18 11:3 |
| appearance 4:18 | Certified 15:6 | controlled 8:24 9:3 | evidence 5:25 6:4 | 11:13,16,19 12:3 |
| appearances 4:17 | certify 15:8 | copies 5:19 | 10:13,15 | 12:9,13,16 13:22 |
| applicable 12:24 | CFR 10:7 12:19,19 | COUNTY 15:4 | EXAMINATION | 13:24 |
| appropriate 9:6 | 12:20,20 13:4,6 | create 7:24 | 3:1 | further 11:3 12:3 |
| argument 12:14 | 13:10 | critical 8:19,25 9:1 | examined 6:11 | |
| assigning 6:25 | Chad 9:11 | 9:17 12:17,18 | excused 12:6 | G |
| Assistant 2:8 4:20 | changes 8:1 | current 6:21 | exhibit 3:5 5:19 | G 4:4 |
| associated 8:8 | Chartoff 1:14 2:3 | currently 11:2 | 7:20,20,21,24 8:2 | Garlinghouse 1:21 |
| Attachment 8:4,5,6 | 4:6,12,19,23 5:8 | | 10:13,14,16 11:23 | 15:6,13 |
| 9:25 10:1,2 | 5:11,20 6:14 | D | EXHIBITS 3:6 | gathered 9:22 |
| attachments 10:13 | 10:14 11:5,11,15 | D 4:4 | experience 9:21 | GBU 1:7 4:9 5:3,12 |
| 10:15 | 12:2,5,11,15 | date 8:8,10 | | 6:1 7:9,12,17 8:12 |
| Attorney 2:8 4:20 | 13:19,23,25 | days 10:4 13:21 | F | 10:2 12:17 |
| authority 13:16,17 | closing 12:10,12 | decision 13:21 | F 15:1 | GBU's 13:17 |
| Avenue 1:22 | Code 5:24 | declaration 3:7 | failed 5:1 | General 2:8 4:20 |
| aware 7:11 | coming 13:20 | 7:21 12:20 | failing 8:23 9:3,5 | go 12:8 |
| | commerce 10:11 | default 5:3,13 | 12:24 | Golden 1:8 4:10 |
| | | described 12:20 | failure 5:4 | 5:12 |
| | | | familiar 7:9,22 | Good 4:7,19 |

| | | | | |
|---|---|--|--|---|
| <p>goods 5:22 11:1 12:23 13:1,6,9 Group 4:9 5:12 GRP 1:7</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>half 7:6 Harry 2:8 4:20 harry.fukano@u... 2:10 hearing 4:25 5:5,7 7:8 holds 11:2 household 5:22 11:1 12:23 13:1,6 13:9</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>identified 9:1 11:23 implement 8:23 include 6:25 12:19 including 5:23 13:1 INDEX 3:1,5 information 9:22 inquiries 9:4 insofar 13:11 inspected 9:8 inspection 6:2 intends 5:25 interstate 10:10 intrastate 10:11 introduce 5:25 6:4 investigated 12:17 investigation 8:6 9:9 10:6 11:20 investigations 7:1,2 investigator 6:5 7:16 9:11 involuntarily 12:23 13:15 involving 7:12 issue 5:13 7:7 issues 5:7</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>James 7:13</p> | <p>Jason 2:12 3:2,7 6:5,7,9,20 12:21 Jeff 7:13 JS-1 3:7 5:19 7:20 10:13,15,16 judge 1:14 2:2 4:6 4:13,19,23 5:8,11 5:20 6:14 10:14 11:5,11,15 12:2,5 12:11,15 13:19,23 13:25 July 1:16 4:1,15</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>knowledge 15:9</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>labeled 7:20 Lacey 1:19 2:4 4:1 Laura 1:14 2:3 4:12 laura.chartoff@... 2:5 law 1:14 2:2 4:13 13:2 laws 12:24 lead 8:19 let's 4:6,17 letter 10:2 Liderway 9:11 Lines 1:8 4:10 5:13 listed 8:10 LLC 1:22 long 7:4 Loop 1:19 2:4</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>M 6:16 11:18 maintain 9:4 marked 10:14 matter 7:7,12,21 method 9:7 motor 2:13 6:3,22 7:1,5,15 9:7,19,22 10:3,8,10,23 11:10</p> | <p>move 10:12</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>N 2:1 4:4 6:16,16 11:18,18 name 4:12 6:18,19 National 1:24 nature 8:18 negative 9:2 notice 10:7 notification 7:13 notified 11:24 notifies 10:7 notifying 10:4 number 10:25</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>O 4:4 6:16 11:18 o0o-- 4:3 oath 6:10 Okay 4:23,25 5:8 5:11 10:14 11:11 11:11,12 12:5,7 12:15 13:25 Olympia 1:24 2:9 operating 10:10 13:15,17 operation 12:25 order 5:14 out-of-service 10:23</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P 2:1,1 4:4 p.m 1:17 4:2,16 14:1 PAGE 3:2,6 Pages 1:13 parts 13:7,10 periodically 9:8 permit 11:1 12:24 pertain 8:11 pertaining 12:25 13:13 phonetic 9:11 place 5:5 10:23</p> | <p>placed 5:18 7:16 please 6:18 8:4,16 9:25 PO 2:9 position 6:21,24 7:4 preemployment 9:3 prepare 9:6 present 2:11 4:24 7:11 presiding 4:13 prior 6:2 9:2 proceed 5:1,6,14,16 proceeding 1:12 4:14 processes 9:16 program 8:24 prohibited 10:9 proposed 5:19 7:20 10:5 11:21 provide 13:14 provisional 11:1 purpose 11:20 put 10:23 putting 10:24</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>qualification 9:5 question 11:6,14 questions 11:4</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>R 2:1 4:4 15:1 random 8:24 ranging 9:1 rating 7:18 10:6,9 10:23 11:8,21 RCW 5:4 ready 5:17 Realtime 1:22 receive 10:5 received 7:13 receives 10:8 receiving 9:2 recognize 10:22 recommendation</p> | <p>10:19,22 record 4:6 6:19 8:17 9:4,6 12:8 reflecting 5:14 Regulations 5:24 relates 13:4,8 rely 9:22 report 8:6,9,11,13 9:10,18 10:21 11:21 12:1 13:12 REPORTED 1:21 Reporter 15:7 Reporting 1:22 request 5:6 11:8,25 requests 13:16 require 5:22 9:5 requirements 5:23 6:2 13:1,5,9,14 requires 13:6,9 resolve 5:7 respect 9:13 respondent 1:10 4:11 respons- 6:23 response 10:20 responsibilities 6:24,25 results 6:2 review 8:10 12:1 reviewing 7:1 right 5:11 11:24 rule 13:2 rules 12:25</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>S 2:1 4:4 S-h-a-r-p 6:20 safety 2:13 5:23 6:1 6:3,22,25 7:2,15 7:18 8:6,19 9:12 9:13,19,22 10:3,5 10:6,9,24 11:8,10 11:21 12:24 13:1 13:5,5,8,13 Seattle 1:23,23 sent 10:2</p> |
|---|---|--|--|---|

| | | | | |
|--|---|--|--|---|
| <p>separate 8:25 serious 8:13,14,18 service 7:17 10:25 set 5:5 13:2 Sharp 2:12 3:2,7 6:5,7,9,20 11:9 12:21 short 4:18 Shorthand 15:6 showing 7:19 shows 6:1 Similarly 13:7 skill 15:9 Southeast 1:19 2:4 spell 6:18 Square 1:19 2:4 staff 2:7 4:18,22 5:2,5,25 6:4,6 9:22 10:19 12:4 13:16,24 Staff's 10:22 standards 5:23 9:12,13,16,19 start 4:17 starting 4:18 state 6:18 8:16 15:3 15:7 status 9:6 substance 8:24 9:3 Suite 1:22 summarize 12:13 supervision 7:16 supervisor 2:13 6:22 7:5 Sure 11:15 12:13 sworn 6:10</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>T 6:16 11:18 15:1,1 take 10:20 13:20 talk 7:7 Taylor 1:21 15:6,13 team 7:2 ten 13:21 test 9:3 testified 6:11</p> | <p>testimony 12:6 testing 8:24 Thank 5:18,20 6:5 6:14 10:17 11:3,5 11:16 12:2,3,5 13:17,19,19,22 think 11:11 THURSTON 15:4 time 4:16 5:5 6:6 10:12 today 4:15,22 13:20 today's 4:13 7:8 transcript 15:8 Transportation 1:2 1:4,18 2:3 4:8,21 8:22 true 15:8 turn 8:4 9:25 TV-190395 1:4 4:7 two 5:19 types 9:1</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>understanding 11:9 unsatisfactory 7:18 10:5,9 upgrade 10:5 11:8 USDOT 10:25 Utilities 1:2,4,18 2:3 4:8,21 8:21</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>Valley 1:8 4:10 5:13 Van 1:8 4:10 5:13 various 5:23 vehicle 10:10 vehicles 9:7 versus 4:9 vi- 8:25 violated 6:1 violation 8:23 9:18 12:18 violations 8:13,15</p> | <p>8:16,18 9:1,17 10:21 11:25 12:18 12:19 13:11,12,14 VOLUME 1:12 vs 1:6</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>WAC 5:4 12:22 13:3,4,7,12 WACs 5:21 Washington 1:1,4 1:18,19,23 2:4,9 4:1,8 7:14 15:3,7 way 8:21 Wednesday 4:15 witness 6:9 Woodland 1:19 2:4 work 7:1 written 5:13 www.buellrealti... 1:25</p> <hr/> <p style="text-align: center;">X</p> <hr/> <p>X 6:16 11:18</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>year 7:6</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1-15 1:13 1:33 1:17 4:2,16 1:45 14:1 10 3:7 1325 1:22 1840 1:22</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2019 1:16 4:1,15 8:10 12:16 206 1:23 24 1:16 4:1 24th 4:15 287-9066 1:23</p> | <hr/> <p style="text-align: center;">3</p> <hr/> <p>3358 1:21 15:13 34.05.440 5:4 360 1:24 2:5,10 382 12:19 13:10 385 13:7,10 385.13 10:8 391 12:19 13:10 392 13:7 395 12:20 13:10 396 12:20 13:7</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>40128 2:9 480-07-450 5:4 480-15-350(3)(b) 13:4 480-15-450(1)(e) 12:22 480-15-560 5:21 13:13 480-15-570 5:22 13:13 480-15-570(1)(c) 13:8 480-15-999 13:3 49 5:24 10:7 12:19 12:19,19,20 13:4 13:6,10</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>534-9066 1:24</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 3:3 60 10:4 621 1:19 2:4 664-1160 2:5 664-1225 2:10 6th 8:10 12:16</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>800 1:24 846-6989 1:24</p> | <hr/> <p style="text-align: center;">9</p> <hr/> <p>98101 1:23 98503 1:19 2:4 98504 2:9</p> |
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