

Docket No. TV-180911 - Vol. I

In re Application of: 1st Choice Movers LLC

January 9, 2019



206.287.9066 | 800.846.6989

1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101

www.buellrealtime.com

email: info@buellrealtime.com



BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In re the Application of) DOCKET NO. TV-180911
)
1st Choice Movers LLC)
)
for a permit to operate)
as a motor carrier of)
household goods.)

BRIEF ADJUDICATIVE PROCEEDING - VOLUME I

Pages 1-25

ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

January 9, 2019

1:30 P.M.

Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive Southwest
Olympia, Washington 98504

REPORTED BY: TAYLER GARLINGHOUSE, CCR 3358

Buell Realtime Reporting, LLC
1325 Fourth Avenue, Suite 1840
Seattle, Washington 98101
(206) 287-9066 | Seattle
(253) 235-0111 | Tacoma
(800) 846-6989 | National

www.buellrealtime.com

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A P P E A R A N C E S

ADMINISTRATIVE LAW JUDGE:

RAYNE PEARSON
Washington Utilities and
Transportation Commission
1300 South Evergreen Park Drive SW
Olympia, Washington 98504
(360) 664-1160

FOR COMMISSION STAFF:

JEFF ROBERSON
Assistant Attorney General
PO Box 40128
Olympia, Washington 98504
(360) 664-1188
jroberson@utc.wa.gov

FOR 1st CHOICE MOVERS:

MATTHEW COMELLA
1st Choice Movers LLC
3512 S Juneau Street, Apt 305
Seattle, Washington 98118
(206) 480-7932
matthew@1stchoicemovers.co

ALSO PRESENT:

MICHAEL DOTSON, Staff Witness

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1 OLYMPIA, WASHINGTON; JANUARY 9, 2019

2 1:30 P.M.

3 --o0o--

4 P R O C E E D I N G S

5

6 JUDGE PEARSON: Then let's be on the record.

7 Good afternoon. This is Docket TV-180911, which is an
8 application for a household goods permit filed by 1st
9 Choice Movers LLC.

10 My name is Rayne Pearson. I'm an
11 administrative law judge presiding over today's brief
12 adjudicative proceeding.

13 So let's start by taking appearances from
14 both parties, and we'll begin with Commission Staff.

15 MR. ROBERSON: Good afternoon. My name is
16 Jeff Roberson, R-o-b-e-r-s-o-n. My address is 1400
17 South Evergreen Park Drive Southwest. PO Box 40128,
18 Olympia, Washington 98504. My phone number is, excuse
19 me, 360-664-1188, and my email address is
20 jeff.roberson@utc.wa.gov. With me at counsel table is
21 Mike Dotson, the Commission's transportation specialist.

22 JUDGE PEARSON: Okay. Thank you.

23 And for the Company? If you can state your
24 first and last name, spelling your last name, and then
25 provide us with your address, telephone number, and

1 email address.

2 MR. COMELLA: Yes, my name is Matthew
3 Comella. I live 3512 South Juneau Street, Seattle,
4 Washington 98118. Also, my phone number is
5 206-480-7932, and my email address is
6 matthew@1stchoicemovers.co.

7 JUDGE PEARSON: Okay. Can you come a little
8 bit closer to the microphone and then could you spell
9 your last name?

10 MR. COMELLA: Yeah, my last name is C-o-m,
11 as in Mary, e-l-l-a.

12 JUDGE PEARSON: Okay. Thank you.

13 So before we get started, I'd like to
14 provide an overview of this afternoon's proceeding.
15 We're here today because the Commission issued a notice
16 of intent to deny the Company's application for a
17 permanent authority as a household goods carrier.

18 And, Mr. Comella, you requested a hearing to
19 have an opportunity to respond to the allegations in the
20 notice and explain why the application should be
21 granted.

22 So I want to just clarify your position
23 before we get started. Are you disputing any of the
24 convictions that were listed in the notice of intent to
25 deny?

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1 MR. COMELLA: No, Judge Pearson. I take
2 full responsibility for the crimes that I committed.

3 JUDGE PEARSON: Okay. So are you aware that
4 the Commission rules bar from entry any individuals who
5 has been convicted of certain crimes in the past five
6 years?

7 MR. COMELLA: Yes, Judge.

8 JUDGE PEARSON: Okay. So the Commission
9 does have the authority to grant an exemption from any
10 of its rules, and if you would like, you can request
11 that the Commission make an exception and grant you a
12 household goods permit despite your criminal history.
13 Is that what you would like to do?

14 MR. COMELLA: Yes, Judge.

15 JUDGE PEARSON: Okay. So under WAC
16 480-15-035, companies are required to file with the
17 Commission a written request for an exemption from a
18 rule and giving a full explanation of the reason the
19 exemption is requested. However, there's another
20 procedural rule that allows the Commission to grant an
21 exemption from any of its rules in individual
22 circumstances if the exemption is consistent with the
23 public interest and the purposes underlying the
24 statute -- or the regulations and applicable statutes.

25 And I am willing to grant you an exemption

1 from the requirement that you file a written request for
2 exemption from the rule, because we can address your
3 request from -- for exemption here today with all
4 parties present and with the ability to respond provided
5 that Staff has no objection to doing so.

6 MR. ROBERSON: Staff has no objection.

7 JUDGE PEARSON: Okay. So I know that was a
8 lot of convoluted legalese, but I wanted to allow you to
9 speak to why you think the Commission should make an
10 exception to its rules in this circumstance without
11 having to file all the written paperwork that you would
12 normally have to file. Does that make sense?

13 MR. COMELLA: Yes, Judge.

14 JUDGE PEARSON: Okay. So let me get back to
15 describing how we'll proceed. So, Mr. Comella,
16 Mr. Roberson will first give a brief overview of Staff's
17 case and then you can present your case. Once you
18 present your case, Staff will introduce its witness,
19 Mr. Dotson, and he will testify about Staff's
20 investigation of your application, and then you will
21 have the opportunity to ask him questions when he's
22 finished testifying. And then once all of the witnesses
23 have testified, both parties will have the chance to
24 make a closing statement. Do you have any questions
25 before we get started?

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1 MR. COMELLA: No, Judge.

2 JUDGE PEARSON: Okay. So, Mr. Roberson, you
3 can go ahead and proceed with your opening statement.

4 MR. ROBERSON: Good afternoon. As you've
5 mentioned, we're here on an application by 1st Choice
6 Movers LLC. In the course of processing that
7 application, Mr. Dotson, acting for Commission Staff,
8 discovered a number of criminal convictions from
9 Florida.

10 JUDGE PEARSON: Is your microphone on?

11 MR. ROBERSON: It is. I may --

12 JUDGE PEARSON: Okay. Can you just pull it
13 closer?

14 MR. ROBERSON: Sorry.

15 JUDGE PEARSON: Thank you.

16 MR. ROBERSON: Mr. Dotson discovered a
17 number of criminal convictions in Florida, the most
18 recent of which was entered I believe on
19 February 23rd, 2016, which is within the five-year
20 period under which the Commission will not grant an
21 application under both WAC 480-15-302(8)(a) and
22 480-15-302 -- 305(2). Staff notified the Commission of
23 its findings. There was a notice of intent to deny and
24 here we are. That's basically it.

25 JUDGE PEARSON: Okay. So one other thing I

1 forgot to address that I wanted to before we got started
2 is the exhibits that have been filed in this docket. So
3 Staff filed an exhibit list with proposed exhibits. I
4 believe each one is a criminal history?

5 MR. ROBERSON: It is, and Mr. Comella has
6 copies of that.

7 JUDGE PEARSON: Okay.

8 MR. ROBERSON: And if I understand him
9 correctly, if he's not disputing the convictions, then
10 if he's willing to stipulate to them, there's actually
11 very little reason for Mr. Dotson to testify.

12 JUDGE PEARSON: Okay.

13 MR. ROBERSON: The convictions will be in
14 the record.

15 JUDGE PEARSON: Okay. Are you -- are you
16 fine with admitting those into the record?

17 MR. COMELLA: Yes, ma'am.

18 JUDGE PEARSON: Okay. And then Mr. Comella
19 also submitted six letters of character reference that
20 came in. Does Staff have --

21 MR. ROBERSON: Staff has no objection to
22 admitting those into the record.

23 JUDGE PEARSON: Okay. And what I'd like to
24 do is actually consolidate them all into one exhibit and
25 mark it as MC-1. So we will put those letters of

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1 recommendation into the record as well, okay?

2 (Exhibit MC-1 admitted.)

3 JUDGE PEARSON: All right. Then,
4 Mr. Comella, it's your turn. Let me swear you in before
5 you get started. If you would stand and raise your
6 right hand.

7

8 MATTHEW COMELLA, witness herein, having been
9 first duly sworn on oath,
10 was examined and testified
11 as follows:

12

13 JUDGE PEARSON: Okay. So go ahead and take
14 a seat, and this is your opportunity to address what was
15 in the notice, give your reasons why you think we should
16 grant your application for a household goods permit, and
17 then also please specifically speak to why we should
18 make an exception to the five-year rule in this
19 circumstance.

20 MR. COMELLA: Okay. My name is Matthew
21 Comella. I'm from Melbourne, Florida. I recently moved
22 here about a year and a half ago.

23 JUDGE PEARSON: Could you speak up a little
24 bit --

25 MR. COMELLA: Yeah.

1 JUDGE PEARSON: -- and come a little bit
2 closer to the microphone? Okay. Thank you.

3 MR. COMELLA: All right. Can you hear me?

4 JUDGE PEARSON: That's much better. Thank
5 you.

6 MR. COMELLA: Loud and clear?

7 JUDGE PEARSON: Yes.

8 MR. COMELLA: My name is Matthew Comella.
9 I'm from Melbourne, Florida. Currently moved from
10 Ft. Lauderdale, Florida, to out here April 2017. I'm
11 here to take full responsibility for the allegation of
12 the charges. I did admit guilt in every single one, and
13 I'm not here to minimize or justify these crimes. I'm
14 just here to lay some facts out for you guys as well
15 since that time frame of committing these crimes.

16 The first thing I want to say is that when
17 these crimes were committed, I was homeless. Also, I
18 didn't have any money, and I was a heroin addict, an IV
19 drug user. Since then, my sobriety date was -- is
20 August 17th, 2013. I went to detox and then I went to a
21 program in Ft. Lauderdale, Florida, called Primary
22 Purpose Sober House. It's a four-phase program based on
23 the 12 steps of Alcoholics Anonymous. I was there --
24 which I do have a letter. I don't know if I have to
25 submit this or not.

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1 JUDGE PEARSON: Is that separate --

2 MR. COMELLA: But I do have a letter just
3 confirming the time I was there and then the time I
4 left. Also, here's my completion of the program,
5 graduate certificate.

6 JUDGE PEARSON: So are those originals or
7 are those copies that you're willing to leave here?

8 MR. COMELLA: Copies.

9 JUDGE PEARSON: They're copies?

10 Are you okay with that, Mr. Roberson?

11 MR. ROBERSON: Yes, we are.

12 JUDGE PEARSON: Okay. If you want to bring
13 those up to me, I will admit them and mark them as
14 Exhibit MC-2. I'll take those. Thank you.

15 (Exhibit MC-2 admitted.)

16 MR. COMELLA: Okay. So when I was there, I
17 was a part of the community. I learned a lot about the
18 12 steps of Alcoholics Anonymous. I can honestly say
19 all 12 right here in court if you'd like me to. But so
20 I do have practical experience in recovery.

21 Also, from the time I started working there,
22 I started working in the moving industry as an estimator
23 or moving coordinator for different moving companies,
24 which I have my resume as well if you -- just to prove
25 where I worked, Judge, if you'd like that as well?

1 JUDGE PEARSON: Mr. Roberson, are you fine
2 with that?

3 MR. ROBERSON: No objection.

4 JUDGE PEARSON: Okay. Yeah, you can bring
5 that up. That's fine. I will admit that and mark it as
6 Exhibit MC-3. Thank you.

7 (Exhibit MC-3 admitted.)

8 MR. COMELLA: And, again, I'm just
9 displaying the facts.

10 Also, so while I was in sobriety and at
11 the -- at the sober house, I graduated, was part of the
12 community. Also, I took a break from the moving
13 industry and decided to work in treatment as a manager,
14 and I went to court as a court liaison for one of our
15 clients that was looking at a prison -- five-year prison
16 term.

17 And instead -- I came on his behalf to get
18 him to come to our treatment center instead. And when I
19 was -- went to pick him up the next day from the jail to
20 enter him into the treatment center, I realized I had a
21 warrant from 2013, the last crime that I did commit.
22 And I do have that information as well. I believe it's
23 probably in there.

24 But when I committed the crime, it was
25 May 17th, 2013. That was the last crime that I

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1 committed, and that was before I got sober. Actually,
2 three months prior to me getting sober. I handled that,
3 because I have violated probation in the past, but the
4 court record does show that I did complete and pay all
5 the fines within three weeks of being on the probation.
6 And because of that, I was early termed for -- for three
7 months with that. So I did successfully complete --
8 when I did get sober, I did successfully complete a
9 probation. Also --

10 JUDGE PEARSON: Can I ask you a question
11 just real quickly?

12 MR. COMELLA: Yes.

13 JUDGE PEARSON: So the 2016 theft
14 conviction, was -- the crime occurred in 2013; is that
15 what you're saying?

16 MR. COMELLA: I was originally charged
17 with -- since I was in Ft. Lauderdale, Florida, I wasn't
18 in Brevard County or Melbourne, and I did -- I was
19 unaware that I had a warrant, but I was originally
20 charged with that crime in 2013.

21 JUDGE PEARSON: But the conviction didn't
22 occur until 2016?

23 MR. COMELLA: No, ma'am.

24 JUDGE PEARSON: Okay. I just wanted to
25 clarify that --

1 MR. COMELLA: Yeah. That was --

2 JUDGE PEARSON: -- the 2016 conviction was
3 related to a 2013 crime.

4 MR. COMELLA: Yes.

5 JUDGE PEARSON: Okay.

6 MR. COMELLA: And the only reason why I was
7 arrested on the warrant, because I was unaware and I
8 actually went into a jail to pick somebody up, and they
9 ran my name at the time.

10 JUDGE PEARSON: Okay.

11 MR. COMELLA: So from there, I took -- I
12 took responsibility for the actions that I've made.
13 Also, I have a really great relationship with my parents
14 that I never really had prior to getting sober. My
15 father, as one of the letters of reference, he's really
16 proud of me, and he's willing to stand by me through
17 this. And trust me, there was a time that he would not
18 stand by me if I was out here doing the things that I
19 used to do.

20 Also, my intention of coming out here -- so
21 I ended up leaving there. I still have friends in
22 recovery. One of the issues that I was having there,
23 though, is that back in I would say early 2017, the
24 fentanyl epidemic was killing all my friends, and
25 because I was big in the recovery in South Florida, and

Page 16

1 I decided that if I was going to have a family or kids,
2 I don't want them raised around that environment or even
3 have that opportunity. So I decided to move here. And
4 the reason why I decided -- or one of the reasons why I
5 decided is because my sister lives in Bainbridge Island,
6 and I came to visit, and I really like it here.

7 Also, like I said, if I was to have a
8 family, this is where I would want to have my family at.
9 Just it seems like a safe -- safe state and a really
10 good state. I took the -- a leap of faith and I -- when
11 I got here, I was homeless, I -- I stayed sober, I
12 stayed in a homeless shelter for six months, or actually
13 four months, and then I'm working with different state
14 agencies. Department of Vocational Rehabilitation has
15 helped pay for everything all the way up to this very
16 moment. Even paid for the application process for
17 this -- this license also, which is one of the letters,
18 since August 1st of 2017.

19 Also, I -- I work closely with a business
20 consultant, James McCafferty. He is appointed by the
21 State or the Department of Vocational Rehabilitation,
22 and he walks -- he pretty much helps me with every other
23 issue that I have, because I have never been to college,
24 and this is the first time I've ever done anything like
25 this. So I really need as much help as I can get.

1 Also, I do go to therapy for -- Catholic
2 Community Services, CREW. It's called CREW. It is in
3 downtown Seattle. I've been going to therapy since I've
4 gotten here. I do have a home. I live in a Catholic
5 Community Service low income home. I am on welfare.
6 I'm trying to break this issue right now hopefully. And
7 I work closely with a business mentor, her name is
8 Katherine Coe, through the Small Business
9 Administration. I talk to her every two weeks to check
10 in and to guide me on what I need to be doing. And then
11 I also submitted a letter of where I live and the
12 character that's displayed to them as well.

13 And so that's pretty much my story since
14 those crimes were committed. I've done as much as I
15 think I can possibly do or probably I could -- I could
16 probably do more, but at the same time, the person that
17 I used to be, I can't relate to that person as much
18 because it's been a while, and I'm not here to justify
19 again or minimize it. I take full responsibility for
20 those crimes. But I'm -- today I'm just trying to be a
21 different -- different person, and I've been working
22 hard on that, and I just need this opportunity to show
23 people that I can do this. That's it.

24 JUDGE PEARSON: Okay. Thank you. So
25 what -- are you practicing any sort of recovery program

Page 18

1 now, are you still attending meetings, do you have a
2 sponsor?

3 MR. COMELLA: Yeah, I have a sponsor. I
4 have a lot of people that are in recovery from South
5 Florida that I still talk to and also out here at
6 Abigail's Ghost in downtown Seattle, and also, I do have
7 a sponsor.

8 JUDGE PEARSON: Okay. What's your meeting
9 attendance like?

10 MR. COMELLA: It's not that great honestly.
11 Maybe couple times a week.

12 JUDGE PEARSON: Okay. Mr. Roberson, do you
13 have any questions for Mr. Comella?

14 MR. ROBERSON: A very small number.

15

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

17 BY MR. ROBERSON:

18 Q. I guess, how stable is your housing situation?

19 A. Currently I'm on the Housing and Essential Needs
20 program, which every month they pay for, and I'm
21 actually on it until August of this year.

22 Q. Okay. Do you still think unstable housing could
23 be a factor in relapse, I guess, if it was a factor in
24 the criminal history?

25 A. No, I was homeless and sober out here, sir.

1 Q. Okay. The only other question I really have, do
2 you remember filling out the application for a household
3 goods authority?

4 A. Yes, sir.

5 Q. Do you remember being asked whether anybody
6 named in the application had been convicted of certain
7 crimes?

8 A. Yes, sir.

9 Q. Do you know why you checked the box "no"?

10 A. Honestly I thought the -- the convictions -- I
11 didn't see the law where it stated that you guys could
12 go through your discretion past the five years. And
13 technically, which is weird, like I thought that since I
14 committed the crime in 2013, that it didn't fall in that
15 category of five years.

16 Q. Okay. But the application asked if anyone has
17 ever been convicted of a theft crime, correct?

18 A. Correct.

19 Q. And yet you still checked no?

20 A. Correct.

21 MR. ROBERSON: Okay. I think that's all I
22 have.

23 JUDGE PEARSON: Okay. I have another
24 question. Do you have a moving truck?

25 MR. COMELLA: Yes, Judge.

Page 20

1 JUDGE PEARSON: Okay.

2 MR. COMELLA: I do pay monthly insurance on
3 that as well.

4 JUDGE PEARSON: Okay.

5 MR. COMELLA: That I'm not using, Judge.

6 JUDGE PEARSON: Okay. So are you conceding
7 that you were dishonest on your application? When you
8 checked the no box, even though it asked if you had ever
9 been convicted of a crime, were you hoping that the
10 Commission wouldn't find out or what was the thought
11 process behind that?

12 MR. COMELLA: It wasn't my intention. I
13 thought it was within five years.

14 JUDGE PEARSON: Okay.

15 MR. COMELLA: And I -- I misread -- misread
16 it.

17 JUDGE PEARSON: Okay.

18 MR. COMELLA: Because I knew you guys were
19 going to do a background check.

20 JUDGE PEARSON: Okay.

21 MR. COMELLA: Also, I do work closely with
22 the -- a lot of the investigators here. I've been
23 working closely with -- in the -- in the beginning, I
24 did work with Jason -- Jason Sharp and Jason Hoxit, I've
25 been working closely with as well, and Eric sometimes.

1 A little bit of dialogue with Mr. Dotson as well.

2 So I've been trying to stay as transparent
3 and as, what do you call that, compliant as possible.
4 Because I -- I know a lot, but I don't know everything,
5 and I just want to make sure that I'm following all laws
6 or regulations based on that. Because honestly, I have
7 took the class back in August for the, what is it, the
8 compliance or --

9 JUDGE PEARSON: Do you mean the household
10 goods training that the Commission sponsors?

11 MR. COMELLA: Yes, yes, Judge. So I took
12 that back in August, and that was one thing that they
13 did say, like, you know, you know, we like to make
14 money, not spend it or something. To where like if we
15 mess up, they'll fine us. And right now, I can't really
16 afford being fined.

17 So I'm just trying to make sure that I --
18 that I -- I follow every rule and regulation because
19 those can add up. And that's one thing that me and
20 Jason, Mr. Hoxit, have talked about a lot, and just to
21 make sure that I'm complying all the way. Because I
22 don't mind working closely with you guys at all.

23 JUDGE PEARSON: Okay. Mr. Roberson, did you
24 have anything else? Do you want Mr. Dotson to testify?

25 MR. ROBERSON: He -- Mr. Dotson is mostly

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1 here as an authenticator of the record --

2 JUDGE PEARSON: Okay.

3 MR. ROBERSON: -- to the extent that they've
4 been stipulated to, the facts are the facts and the law
5 applies or it doesn't so --

6 JUDGE PEARSON: Okay.

7 MR. ROBERSON: -- which is up to you.

8 JUDGE PEARSON: Okay. All right. So did
9 you want to make a closing statement?

10 MR. ROBERSON: Briefly I can, Your Honor.

11 JUDGE PEARSON: Can you come closer to the
12 microphone?

13 MR. ROBERSON: Yes.

14 JUDGE PEARSON: Thank you.

15 MR. ROBERSON: I warned Mr. Comella about
16 this and still failed to actually properly use the mic.

17 The Commission's rules governing exemptions
18 are set out in WAC 480-07-110(2)(c). There are two
19 things that the Commission looks at. The first is
20 whether the rule imposes an undue hardship on the
21 requesting person of a degree or kind different from
22 hardships imposed on similarly situated persons.

23 Second thing is whether the application of
24 the rule to the person is inconsistent with the purpose
25 of the rule.

1 The Commission has recently, I guess,
2 expounded its understanding of how those things apply to
3 an application for a household goods authority, whether
4 it's criminal history. That's Order 01 in Docket
5 TV-180213. And basically with regard to the first
6 criteria, the Commission says all persons convicted of
7 theft are basically similarly situated so you would have
8 to show -- that the requesting person would have to show
9 that there's some kind of undue hardship that other
10 persons convicted of theft don't suffer. I'm not sure
11 that that has been shown here.

12 With regard to the second criteria, the
13 Commission basically said it has moved to a bright line
14 rule, and exemptions of this nature undercut that bright
15 line rule. It doesn't seem inclined to grant them.
16 Given what it said that in that docket, it seems like an
17 exemption is unwarranted here, but, again, that is a
18 factual determination that is up to Your Honor so...

19 JUDGE PEARSON: Okay. Thank you.

20 Mr. Comella, did you have anything that you
21 wanted to say in closing? It's okay if you don't. I
22 just wanted to give you the opportunity.

23 MR. COMELLA: No, ma'am.

24 JUDGE PEARSON: Okay. So before we adjourn,
25 I'd like to request that the parties waive the

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1 requirement to issue an order in ten days. I like to
2 have the transcript available to me when I'm writing my
3 decision, and we usually receive the transcript within
4 seven to ten days. So I anticipate that I would issue
5 an order within five business days from the date I
6 receive the transcript at the latest. Does either party
7 object to waiving that requirement?

8 MR. ROBERSON: Staff has no objection.

9 MR. COMELLA: No, Judge.

10 JUDGE PEARSON: Okay. Thank you. So is
11 there anything further that we need to address before we
12 go off the record?

13 MR. ROBERSON: Not from Staff's perspective.

14 JUDGE PEARSON: Okay. Thank you all for
15 coming here today, and we are adjourned. Thank you.

16 (Adjourned at 1:55 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON

COUNTY OF THURSTON

I, Tayler Garlinghouse, a Certified Shorthand Reporter in and for the State of Washington, do hereby certify that the foregoing transcript is true and accurate to the best of my knowledge, skill and ability.



Tayler Garlinghouse
Tayler Garlinghouse, CCR 3358

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