

NO. 129263

**IN THE SUPREME COURT
OF THE STATE OF ILLINOIS**

ROBERT COMMACHO JR.
JAMES A JONES, BRUCE D. OLIVER
DAVID B. SPEER, JORGE URBINA

Plaintiffs-Appellees,

vs.

THE CITY OF JOLIET,
a municipal corporation

Defendant-Appellant.

On Petition for Leave to Appeal from the Appellate Court of Illinois
Third Judicial District, No. 3-21-0591
There Heard on Appeal from the Circuit Court of the Twelfth Judicial Circuit, Will
County, Illinois,
No. 2021 MR 1420
The Honorable John C. Anderson, Judge Presiding

BRIEF AND ARGUMENT OF THE APPELLEES

Oral Argument Requested

E-FILED
8/11/2023 5:46 PM
CYNTHIA A. GRANT
SUPREME COURT CLERK

Andreano Law PC
Frank P. Andreano, #06202756
Eric A. Cobb #6335708
Attorneys for the Appellees
58 N. Chicago Street, Suite 509
Joliet, IL 60432
(815) 242-2000
Email: FRANK@ILTRIALS.COM
Email: ERIC@ILTRIALS.COM

TABLE OF CONTENTS AND POINTS AND AUTHORITIES

Nature of the Case	Pg. 5
<i>Cammacho v. City of Joliet,</i> 2022 IL App (3d) 210591.....	Pgs. 5,8, 9
Statement of Jurisdiction	Pg. 5
Ill. Sup. Ct. R. 301.....	Pg. 5
Issues Presented For Review	Pg. 5
Standard of Review	Pg. 5
<i>Griffin v. Village of New Lenox Police Pension Fund,</i> 2021 IL App (3d) 190557.....	Pg. 6
Statement of Facts	Pg. 7
<i>Cammacho v. City of Joliet,</i> 2022 IL App (3d) 210591.....	Pg. 8
Argument	Pg. 9
I. THE CITY OF JOLIET DID NOT ACT WITHIN THE CONFINES OF ITS OWN ORDINANCES, AS THE OFFENSES ALLEGED DID NOT INVOLVE THE ‘STANDING, PARKING, OR CONDITION OF VEHICLES’	Pg. 9
<i>Cammacho v. City of Joliet,</i> 2022 IL App (3d) 210591.....	Pg. 9
<i>Lintzeris v. City of Chicago,</i> 2023 IL 127547	Pg. 9
<i>People ex rel. Ryan v. Village of Hanover Park,</i> 311 Ill. App. 3d 515, 518-19, 724 N.E.2d 132 (1999).....	Pgs. 9, 14
<i>Griffin v. Village of New Lenox Police Pension Fund,</i> 2021 IL App (3d) 190557.....	Pg. 9

625 ILCS 5/11-208.3.....	Pgs. 10,13
Joliet, Ill. Code §3-1(b).....	Pg. 10
Joliet, Ill. Code §3-3(3)(b).....	Pg. 10
Joliet, Ill. Code §19, Art, II.....	Pgs. 10, 11
625 ILCS 5/4-203.....	Pg. 11
625 ILCS 5/11-202.....	Pg. 11
625 ILCS 5/11-305.....	Pg. 11
Joliet, Ill. Code §19-1	Pgs. 11, 13
Joliet, Ill. Code. §19-22.....	Pgs. 11, 14
Joliet, Ill. Code. §19-23	Pgs. 11, 14
Joliet, Ill. Code §19-137.....	Pg. 11
Joliet, Ill. Code §19-138.....	Pg. 11
Joliet, Ill. Code §19-233.....	Pg. 11
Joliet, Ill. Code §19-234.....	Pg. 11
Joliet, Ill. Code §19-236.....	Pg. 11
<i>Catom Trucking Inc. vs. City of Chicago,</i> 2011 IL App (1st) 101146 (2011)	Pgs. 11, 13, 14
65 ILCS 5/1-2.1-2.....	Pgs. 12, 13
625 ILCS 5/6-204.....	Pgs. 13, 14, 15
625 ILCS 5/15-316.....	Pg. 13
625 ILCS 5/15-101.....	Pg. 13
625 ILCS 5/15-102.....	Pg. 13

625 ILCS 5/15-103.....Pg. 13

625 ILCS 5/15-107.....Pg. 13

625 ILCS 5/15-111.....Pg. 13

Joliet, Ill. Code §19, Div. 2.....Pg. 13

Joliet, Ill. Code. §19-12Pg. 13

Joliet, Ill. Code. §19-14.....Pg. 13

Joliet, Ill. Code. §19-17.....Pg. 14

Joliet, Ill. Code. §19-19.....Pg. 14

Joliet, Ill. Code. §19-24.....Pg. 14

Joliet, Ill. Code. §19-25Pg. 14

II. JOLIET’S ENFORCEMENT REGIME CONFLICTS WITH THE MANDATORY REPORTING OBLIGATIONS IMPOSED BY THE GENERAL ASSEMBLY UPON COMMERCIAL DRIVERS AND OPERATORS, AND IS THUS OUTSIDE JOLIET’S HOME RULE AUTHORITY..... Pg. 14

People v. Blackorby,
146 Ill. 2d 307, 319 (Ill. 1992).....Pg. 15

625 ILCS 5/18b-105(b) Pgs. 15,17

49 CFR Part 385..... Pgs. 15,18

49 USC §113(b) Pg. 15

49 USC §31144.....Pg. 15

49 USC §31148..... Pg. 15

49 USC §31151..... Pg. 15

49 USC §31502..... Pg. 15

625 ILCS 5/6-500.....	Pgs. 16, 17, 19
625 ILCS 5/6-502.....	Pg. 16
625 ILCS 5/6-519.....	Pg. 16
49 USC §31309.....	Pg. 16
49 USC §31311.....	Pg. 16
625 ILCS 5/6-204.....	Pg. 17
<i>Catom Trucking Inc. vs. City of Chicago</i> , 2011 IL App (1st) 101146 (2011)	Pg. 18
<i>People ex rel. Nelson v. Wiersema State Bank</i> , 361 Ill. 75, 78–79, 197 N.E. 537 (1935).....	Pg. 18
<i>People v. Badoud</i> , 122 Ill.2d 50, 55–56, 118 Ill.Dec. 407, 521 N.E.2d 884 (1988).....	Pg. 18
<i>Gaither v. Lager</i> , 2 Ill.2d 293, 301, 118 N.E.2d 4 (1954).....	Pg. 18
N. Singer, Sutherland on Statutory Construction § 49.10, at 400–01 (Sands 4th ed.1986)	Pg. 18
49 CFR Part 390.....	Pgs. 19, 20
49 CFR §390.21.....	Pg. 19
49 USC §31134.....	Pg. 19
<i>Trucking Ass'ns v. United States</i> , 344 U.S 298 (1953)	Pg. 20
<i>Midwest Crane and Riggings vs. F.M.C.S.A.</i> , 603 F. 3rd 837 (10th Cir. 2010)	Pg. 20
Ill. Sup. Ct. R. 552.....	Pg. 20
625 ILCS 5/1-111.7.....	Pg. 21

ConclusionPg. 21

NATURE OF THE CASE

This is an appeal of an administrative review in which the Illinois Appellate Court, Third District, held that the City of Joliet lacked jurisdiction to adjudicate certain traffic citations issued to commercial drivers. *Cammacho v. City of Joliet*, 2022 IL App (3d) 210591. The Appellees are truck drivers issued ordinance violation citations by the City of Joliet for driving upon City of Joliet roadways in violation of posted weight limit and 'no truck' signs. The City of Joliet hearing officer rejected Appellees' arguments and found them liable. Appellees sought administrative review in the Circuit Court, who affirmed the hearing officer's ruling. The Illinois Appellate Court reversed. *Cammacho v. City of Joliet*, 2022 IL App (3d) 210591. No issues are raised as to the pleadings.

STATEMENT OF JURISDICTION

This Court has jurisdiction by virtue of Ill. Sup. Ct. Rule 301. The Appellees were found liable for various ordinance violations on April 13, 2021. (C. 10-16) On May 13, 2021, the Appellees filed a complaint for administrative review (C. 6-9) with the Circuit Court affirming the hearing officer's ruling on November 24, 2021. (C. 129) Notice of Appeal was filed on December 3, 2021. (C. 131-136) The Illinois Appellate Court, Third District, reversed the trial court on November 15, 2022, after thereafter timely sought review by this Court, which was granted on March 29, 2023.

ISSUE PRESENTED FOR REVIEW

Can a municipality administratively adjudicate traffic offenses involving commercial motor vehicles or CDL holders?

STANDARD OF REVIEW

The standard of review on administrative review is *de novo* for issues of law, and deferential as to issues of fact. *Griffin v. Village of New Lenox Police Pension Fund*, 2021 IL App (3d) 190557, ¶ 19. Here, the Appellees urge no issue of fact is in dispute and *de novo* review is proper.

STATEMENT OF FACTS

There are almost no facts in disputes in this case. (C. 42-47) The City of Joliet is bisected by Interstate 80 and Interstate 55, and major railways, which has resulted in a great volume of truck traffic. (C. 42) A former U.S. Army munitions plant, which plant was served by rail and barge facilities, has been redeveloped into an expansive logistical and warehouse hub, resulting in heavy truck traffic encroaching upon formerly bucolic farmland. (C. 43) In response to public complaints the City of Joliet has placed ‘no truck’ signs along various arterial roadways, designated certain streets as truck routes, and has barred truck travel on other non-designated routes. (C. 43) The City has also created a truck enforcement division to enforce these, and other, regulations on commercial motor vehicles. (C. 43-44) The dispute at hand involves whether the City of Joliet may enforce the foregoing traffic ordinances through a system of administrative adjudication?

The Appellees in this case are commercial truck drivers who drove semi-trucks and trailers upon City of Joliet roadways in violation of posted weight limit and ‘no truck’ signs. (C. 90-107) Depending on whether the police officer wrote the driver(s) one or two ordinance violation tickets (C. 120-126) the drivers were found administratively liable by a hearing officer and ordered to pay either \$800 or \$1350. (C. 10-16) Robert Commacho Jr., James Jones, Bruce D. Oliver, were each fined \$750 by the City of Joliet for the offense of “Overweight on Non-Designated City Road”, with costs also assessed in the additional amount of \$50, for a total

due of **\$800**. (C. 10-12, 15-16) David B. Speer and Jorge Urbina were fined \$750 for the offense of “Overweight on Non-Designated City Road”, with costs also assessed in the additional amount of \$50. (C. 13, 15) Speer and Urbina were also fined and additional \$500 “Over Maximum Length on Non-Designated City Road” with costs also assessed in the additional amount of \$50, for a total due of **\$1,350** each. (C. 13-16) The drivers then filed a complaint for administrative review in the Circuit Court (C. 17-18), which the Circuit Court affirmed the hearing officer’s decision. (C.129)

The Drivers then filed a timely notice of appeal (C. 131-136) and the Illinois Appellate Court, Third District reversed. *Cammacho v. City of Joliet*, 2022 IL App (3d) 210591. No issues are raised as to the Pleadings.

Argument

I. THE CITY OF JOLIET DID NOT ACT WITHIN THE CONFINES OF ITS OWN ORDINANCES, AS THE OFFENSES ALLEGED DID NOT INVOLVE THE ‘STANDING, PARKING, OR CONDITION OF VEHICLES’

In *Lintzeris v. City of Chicago*, 2023 IL 127547, this Court recently upheld the home rule authority of the City of Chicago to impose administrative penalties for the recovery of impounded vehicles. In so doing, this Court noted that the imposition of these administrative fees differed from the alternative administrative adjudication of traffic offenses at issue in *People ex rel. Ryan v. Village of Hanover Park*, 311 Ill. App. 3d 515, 518-19, 724 N.E.2d 132 (1999). *Id.* at ¶ 36. In *Hanover Park*, the Court invalidated the alternative traffic enforcement program of various municipalities as being outside of their respective home rule authority, as such “non-reporting” disrupted the uniform reporting of traffic infractions which the General Assembly demands. *Hanover Park*, 311 Ill. App. 3d at 586-587. Here, the reasoning set forth in *Hanover Park* applies. Not only does the system adopted impair reporting, both federal and state law requires the reporting of traffic and equipment violations committed by commercial drivers, except parking tickets. *Infra*. However, it is not necessary for this Court to reach this issue as the City of Joliet’s own ordinances do not allow for the adjudications at bar.

As noted above, because there are no facts in dispute *de novo* review proper. *Griffin v. Village of New Lenox Police Pension Fund*, 2021 IL App (3d) 190557, ¶ 19. There is no question that the drivers violated the ordinances at issue, which

fact was stipulated to by the drivers. (C. 90-107) Rather than assert a factual defense, each driver filed a motion to dismiss the charges against them at the administrative level based on legal grounds. (C. 70-107) The hearing officer denied the drivers' motions in a written ruling (C.17-18) and subsequently found the drivers liable as set forth above. *Supra*. Respectfully, the hearing officer was mistaken.

The City of Joliet has adopted an ordinance, known as the [Joliet Administrative Adjudication Code](#) (hereinafter "Code"), which is the starting point of the dispute at hand, viz:

“The city hereby adopts 625 ILCS 5/11-208.3, in its current form and as it may be amended from time to time for the adjudication of violations of traffic regulations concerning the **standing, parking, or condition of vehicles** to the extent permitted by the Illinois Constitution.” ([Jol. Ord. §3-1\(b\)](#), §3-3(3)(b))(emphasis added)

The Code contains a “Definitions” section ([§3-3](#)) under which a “Code Violation” is defined, in pertinent part, as “Violations of traffic regulations concerning the standing, parking, or condition of vehicles (625 ILCS 5/11-208.3);” ([Jol Ord. §3-3\(3\)\(b\)](#)) The drivers were not ticketed for standing, parking, nor for the condition of their vehicles, but rather for operating a commercial motor vehicle upon a roadway where prohibited.

The City has various ordinances regarding “parking” ([Jol. Ord. §19, Article II](#)) which include the angle of parking ([Jol. Ord. §19-137](#)); the length of parking (Jol. Ord.

§19-138); and multiple others. ([Jol. Ord. §19, Article II](#)) There is simply no way to assert that the Appellees were parking, so their conduct does not fit within Article II. (*See also* [Jol. Ord. §19 Art II](#)) Nor, can they be said to have been “standing”, as a moving object is not “standing”. Accordingly, the Court is left with whether the offenses at issue fall within a “condition” of the vehicle. The City ordinances prohibit the storage of “abandoned or inoperable vehicle(s)” ([Joliet Ord. §19-233](#)) and grants authorized City employees the right to “[E]nter upon public or private property at all reasonable hours for the purpose of inspecting vehicles reasonably believed to be in violation of this division.” ([Joliet Ord. §19-234](#)) Joliet Ordinances allow for the City to impound vehicles in accord with 625 ILCS 5/4-203 (Abandoned, wrecked, unattended vehicles), and for a hearing on such violations. ([Joliet Ord. §19-236](#)) Here, the drivers were ticketed for driving semi’s where prohibited – not because they left a vehicle abandoned in a driveway or lawn.

The City of Joliet has adopted the Illinois Vehicle Code ([Jol. Ord. §19-1](#)), which makes it unlawful to disobey any duly posted traffic control device, or any duly enacted traffic law. (625 ILCS 5/11-202, 11-305) The issue at bar is the fact that the Drivers were driving upon a weight restricted roadway, bringing them out of conformance with posted weight restrictions and Joliet’s requirement that trucks of a certain weight and dimension traverse only certain designated routes – unless a permit has been issued. (*See* [Jol. Ord. Nos. 19-22, 19-23](#)) Thus, it is not the “*condition of the vehicle*” which is at issue, or parking. Rather, it is the fact the Plaintiffs engaged in a prohibited movement, akin to driving the wrong way on a one-way street. As it

is the movement of the vehicle which is at issue, the offenses charged are simply not within the purview of the City to administratively adjudicate.

In seeking the dismissal of the charges the drivers cited the case of *Catom Trucking Inc. vs. City of Chicago*, 2011 IL App (1st) 101146 (2011) and various portions of the Illinois Municipal Code ([65 ILCS 5/1-2.1-2](#)) and Illinois Vehicle Code ([625 ILCS 5/15-316\(c\)](#); [625 ILCS 5/11-208.3](#)) (C.17-18, 90, 93, 96) In *Catom Trucking* the court addressed a similar dispute to the one at bar. In Count I of its complaint the plaintiff (Catom Trucking) sought a declaration that the City of Chicago could not administratively adjudicate size and weight restrictions. (*Catom Trucking*, ¶ 1, 4, 11) In *Catom* the trial court and appellate court agreed with plaintiff on this point. (*Catom Trucking*, ¶ 11-14). The starting point for the court in *Catom* was Section 5/1-2.1-2 of the Illinois Municipal Code, viz:

Sec. 1-2.1-2. Administrative adjudication of municipal code violations. Any municipality may provide by ordinance for a system of administrative adjudication of municipal code violations to the extent permitted by the Illinois Constitution. A ‘system of administrative adjudication’ means the adjudication of any violation of a municipal ordinance, **except for** (i) proceedings not within the statutory or the home rule authority of municipalities; **and** (ii) any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles **and** except for **any reportable offense** under Section 6-204 of the Illinois Vehicle Code. (65 ILCS 5/1-2.1-2) (emphasis added)

The court in *Catom* noted that statutes are to be applied as written and giving Section 5/1-2.1-2 its plain and ordinary meaning, the question was whether the

offenses at issue were a “traffic regulation governing the movement of vehicles”. (*Catom Trucking*, ¶ 8-9) The City of Chicago urged that overweight vehicle citations were not such offenses because they were not “reportable” under Section 5/6-204 of the Illinois Vehicle Code. *Id.* The court rejected this reading, viz:

“The proper reading of subsection (ii) is that it excludes ‘any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles,’ as well as ‘any reportable offense under Section 6-204 of the Illinois Vehicle Code.’” (*Catom Trucking*, ¶ 8-9)

Respectfully, the court in *Catom* was correct. There is no question that the Vehicle Code prohibits the movement of overweight vehicles. (625 ILCS 5/15-111; 625 ILCS 5/15-101) Likewise, the Vehicle Code prohibits movement of overlength vehicles (625 ILCS 5/15-107), over-width vehicles (625 ILCS 5/15-102) and over-height vehicles. (625 ILCS 5/15-103) In the case at bar the City of Joliet has, like Chicago, adopted the Illinois Vehicle Code and its numbering system. ([Joliet, Ill. Code 19-1](#)) To suggest that the offenses at issue are not within the scope of the Illinois Vehicle Code prohibitions on movement is simply not well taken. The City of Joliet’s Ordinances establish truck routes ([Joliet, Ill. Code 19, Div. 2](#)), limit trucks to operating only on designated routes (Joliet, Ill. Code. 19-12, 19-14), and empowers the police to require any “person driving or in control of any vehicle not proceeding over a truck route or street over which truck traffic is permitted to proceed to any public or private scale available for the purpose of weighing and determining whether

this division has been complied with.” (Joliet, Ill. Code. 19-17) The Ordinances also have an overweight/over-length permitting system (Joliet, Ill. Code. 19-22, 19-23, 19-24, 19-19) and provides for penalties for “any person who violates, disobeys, omits, neglects or refuses to comply with this division **operating a vehicle with a gross weight in excess of** the maximum weight limits or in excess of special weight limits provided for by ordinance and signposted, without having first obtained an overweight permit from the city manager or designee.’ ([Joliet, Ill. Code. 19-25\(b\)](#))(emphasis added)

Though the drivers urge that the court’s ruling in *Catom* is dispositive, the issue of whether an offense is “reportable” is also important. In *Catom* the parties and the court agreed that overweight tickets are not “reportable” under Section 6-204 of the Vehicle Code. (625 ILCS 5/6-204). This is no longer the case. As discussed in greater detail *infra*, the condition and operation of commercial motor vehicles is subject to comprehensive regulatory oversight and reporting. *Infra*. Allowing a municipality to administratively adjudicate such offenses derails the reporting mandated by federal and state law.

II. JOLIET’S ENFORCEMENT REGIME CONFLICTS WITH THE MANDATORY REPORTING OBLIGATIONS IMPOSED BY THE GENERAL ASSEMBLY UPON COMMERCIAL DRIVERS AND OPERATORS, AND IS THUS OUTSIDE JOLIET’S HOME RULE AUTHORITY.

As discussed *infra*, special rules apply to the reporting of traffic offenses committed by CDL holders. The administrative adjudication regime adopted Joliet

conflicts with these mandatory reporting obligations, and is therefore outside of Joliet's home rule authority.

Congress has empowered the Federal Motor Carrier Administration (FMCSA) with the duty of promoting "[T]he furtherance of the highest degree of safety in motor carrier transportation." 49 USC § 113(b). Congress has further enacted safety legislation concerning the operation of commercial motor vehicles ("CMV") including the safety and fitness of owners and operators, including hours of service, necessary equipment, and many other facets of motor carrier safety. *See* 49 USC § 31144, § 31148, § 31151, § 31502; *See also* 49 CFR Part 385; *see also Alliance for Safe, Efficient and Competitive Truck Transp. v. Federal Motor Carrier Safety Admin.*, 755 F.3d 946 (FMCSA implementation of Safety and Fitness Electronic Records (SAFER) database tracking motor carrier performance and safety records); *see also U.S. v. Smith*, 519 Fed.Appx. 853 (2013)(Discussing implementation of CDLIS driver license clearinghouse to track violations of commercial drivers nationwide). States are required to adopt regulations which meet FMCSA safety standards, or risk the loss of highway funds. 49 CFR § 350.309; *see also* 49 CFR Part 384; 49 USC § 31311. The Illinois General Assembly has adopted the Federal Motor Carrier Safety Regulations (FMCSR) into its Vehicle Code (625 ILCS 5/18b-105(b)) a violation of which is a felony offense. *People v. Blackorby*, 146 Ill. 2d 307, 319 (Ill. 1992) These regulations cover the safe operation commercial motor vehicles (49 CFR Subchapter B) as well as specific regulations related to the inspection, repair, and maintenance of commercial motor vehicles. *See* 49 CFR § 396 *et. seq.* Thus, the 'condition' of commercial motor

vehicles is something which must be reported as part of a comprehensive scheme adopted to keep unsafe operators off the roadways. *Id.*, *see also* 625 ILCS 5/6-502.

One of the many requisites imposed is for states to report violations of CDL holders and violations committed commercial motor vehicles, except for parking violations. (49 USC § 31311(a)(9), (18), (19)). In order to track interstate commercial drivers and assure only qualified and safe commercial drivers operate in interstate commerce, Congress established a Commercial Drivers License Information System (CDLIS) 49 USC § 31309, and as part of receipt of federal highway funds requires “States must use the systems to receive and submit conviction and disqualification data”. (49 USC §31309(4)(A)(ii)). Congress further made funds available to the States for this purpose (49 USC §31309(f)) and the State of Illinois adopted CDLIS reporting into its Vehicle Code. (625 ILCS 5/6-500; 625 ILCS 5/6-519)

“Sec. 6-502. Commercial motor vehicle drivers - reporting of traffic violations to the Secretary of State. When required by the Commercial Motor Vehicle Safety Act of 1986, every person who has been issued an Illinois non-domiciled CLP or non-domiciled CDL or who is a domiciliary of this State and drives a commercial motor vehicle in violation of a law or local ordinance of any State relating to motor vehicle traffic control (other than parking violations) in any other state, shall notify the Secretary of State, on a form and in a manner prescribed by the Secretary, of such violation within 30 days after the date such person has been convicted of such offense.”

625 ILCS 5/6-502

Accordingly, the Illinois General Assembly now requires all offenses committed in a commercial motor vehicle or by a CDL holder (except parking violations) be reported to the Illinois Secretary of State, viz:

“The reporting requirements of this subsection (a) apply to all violations listed in paragraphs (1) and (2) of this subsection (a), excluding parking violations, when the driver holds a CLP or CDL, regardless of the type of vehicle in which the violation occurred, or when any driver committed the violation in a commercial motor vehicle as defined in Section 6-500 of this Code....

..In accordance with 49 C.F.R. Part 384, all reports of court supervision, except violations related to parking, shall be forwarded to the Secretary of State for all holders of a CLP or CDL or any driver who commits an offense while driving a commercial motor vehicle. These reports shall be recorded to the driver’s record as a conviction for use in the disqualification of the driver’s commercial motor vehicle privileges and shall not be privileged information.”

625 ILCS 5/6-204(emphasis added)

In sum, the Illinois General Assembly has made the decision that all offenses, except parking violations, committed in a commercial motor vehicle or by a CDL holder must be reported, regardless of whether the driver is awarded court supervision. 625 ILCS 5/6-204; *see also* 625 ILCS 5/18b-105(b). In mandating such reporting the General Assembly used the word “all” and there is no indication that the General Assembly meant anything other than “all”. The system Joliet has adopted disrupts this reporting regime by avoiding the circuit court.

Not only does the system adopted by Joliet derail the mandatory reporting regime adopted by the General Assembly, the General Assembly is presumed to have

knowledge of the law and applicable court rulings and has elected not to legislatively overrule *Hanover Park* and/or *Catom*, which further supports that “all” means “all”. *People ex rel. Nelson v. Wiersema State Bank* (1935), 361 Ill. 75, 78–79, 197 N.E. 537; *see also People v. Badoud* (1988), 122 Ill.2d 50, 55–56, 118 Ill.Dec. 407, 521 N.E.2d 884; *Gaither v. Lager* (1954), 2 Ill.2d 293, 301, 118 N.E.2d 4; 2A N. Singer, *Sutherland on Statutory Construction* § 49.10, at 400–01 (Sands 4th ed.1986).) The General Assembly has elected not to overrule these decisions, but has instead explicitly mandated reporting. In fact, all offenses by commercial drivers and carriers (except parking) are reported into the Safety and Fitness Electronic Records (SAFER) System, an online system¹ which allows for the rating of every carrier’s safety and performance.² *See Alliance for Safe, Efficient and Competitive Truck Transp. v. Federal Motor Carrier Safety Admin.*, 755 F.3d 946; *see also* 49 CFR § 385.1 (a): “This part establishes the FMCSA’s procedures to determine the safety fitness of motor carriers, to assign safety ratings, to direct motor carriers to take remedial action when required, and to prohibit motor carriers receiving a safety rating of ‘unsatisfactory’ from operating a CMV.” As part of this comprehensive scheme all carriers must have DOT numbers which must be displayed on the side of the commercial vehicle. *See* 49 USC § 31134 (DOT Number required), 49 CFR § 390.21 (specifics of the posting DOT number on side of truck). The prominent display of DOT

¹ See <https://safer.fmcsa.dot.gov/CompanySnapshot.aspx> (visited 8/10/2023)

² a sample SAFER report is available at <https://ai.fmcsa.dot.gov/SMS/Carrier/1691395/CompleteProfile.aspx> (visited 8/10/2023)

numbers allows for the reporting of everything from worn spare tires, to hours of service (HOS) violations, to speeding. (See Note 1, below)

This comprehensive reporting is facilitated by Supreme Court Rule 552, which provides for the adoption of a *Uniform Traffic Citation and Complaint* form, the use of which is mandatory. (Ill. Sup. Ct. R. 552) The form instructs the officer to indicate the CDL status and DOT number of the violator,³ viz:

The image shows a sample of the Illinois Uniform Traffic Citation and Complaint form. The form is divided into three main sections: COMPLAINT, DEFENDANT, and VEHICLE. The COMPLAINT section includes fields for Case No., County, and Township. The DEFENDANT section includes fields for Name, Address, City/State/Zip, and Driver's License information, including a checkbox for CDL. The VEHICLE section includes fields for Registr. No., Make, Year, Color, and US DOT #. A 'FILED' stamp from the Supreme Court Clerk is dated OCT 27 2022. Blue arrows point to the 'CDL' checkbox and the 'VEHICLE' section.

The foregoing is required because commercial motor carrying is highly regulated industrial endeavor conducted on public property. See *Trucking Ass'ns v. United States*, 344 U.S 298 (1953): see also *Midwest Crane and Riggings vs. F.M.C.S.A.*, 603 F. 3rd 837 (10th Cir. 2010). Thus, everything from mud flap violations to speeding must

³ <https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/dcabeebc-f00b-4160-b6bb-6a6aefa7113f/Uniform%20Citation%20and%20Complaint.pdf>

be (and is) reported as part of a comprehensive tracking system which holds commercial motor carriers responsible for the safe operation and proper equipping of their vehicles. *Id.*; *See also* 49 CFR Part 390 *et. seq.* The SAFER data is used to compile Safety Measurement Reports (SMS), publicly available motor carrier performance information which includes: *Violation Summary, Inspection History, Maintenance Violations, Crash Activity, and Acute/Critical Violations. Id. See e.g.* <https://ai.fmcsa.dot.gov/SMS/Carrier/1691395/CompleteProfile.aspx>

The Illinois General Assembly has opted into this comprehensive tracking and reporting system (*See* 625 ILCS 5/1-111.7; 625 ILCS 5/6-500) which includes strict procedures for the reporting of all violations committed by CDL holders. *Id.* Thus, all non-parking violations committed in a commercial motor vehicle or by a CDL holder are “reportable”, which means that even a home rule municipality may not operate its own administrative truck enforcement court system. If a police officer sees a violation the officer can issue a Uniform Traffic Citation, and the violation can be adjudicated in circuit court. However, having an administrative adjudication system outside of the court system frustrates the reporting system which the General Assembly has adopted, and is not within home rule authority of a municipality.

Conclusion

For all the reasons set forth herein, the Appellees urge that the City of Joliet lacked the authority to administratively adjudicate the tickets at issue, and that the Appellate Court’s ruling was correct.

ROBERT COMMACHO JR.,
JAMES A. JONES,
BRUCE D. OLIVER,
DAVID B. SPEER and JORGE URBINA

By: /s/ Frank P. Andreano
Attorney for Appellees

CERTIFICATION

I, Frank P. Andreano, an attorney on oath, certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 17 pages.

Frank P. Andreano

By: /s/ Frank P. Andreano
Attorney for Appellees

Andreano Law PC
Frank P. Andreano, #06202756
Eric A. Cobb #6335708
Attorneys for the Appellees
58 N. Chicago Street, Suite 509
Joliet, IL 60432
(815) 242-2000
Email: FRANK@ILTRIALS.COM
Email: ERIC@ILTRIALS.COM

PROOF OF FILING AND SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On August 11, 2023, the foregoing **Brief of the Appellees** was filed with the Clerk of the Supreme Court of Illinois, using the Court's electronic filing system, which provided service to the following:

Mr. Carl Buck
 Rathbun, Cservenyak & Kozol, LLC
 3260 Executive Drive
 Joliet, IL 60431
cbuck@rcklawfirm.com
Attorney for City of Joliet

Todd C. Lenzie
 Assistant Corporation Counsel
 150 West Jefferson Street
 Joliet, IL 60432
tlenze@joliet.gov
Attorney for City of Joliet

Alexandra E. Weiss
 Assistant Corporation Counsel
 2 N. LaSalle St., Ste. 580
 Chicago, IL 60602
alexandra.weiss@cityofchicago.org
Attorney for City of Chicago

/s/ Frank P. Andreano
 Frank P. Andreano
 One of Plaintiff-Appellees' Attorneys

Andreano Law, PC
 Frank P. Andreano #06202756
 Eric A. Cobb #6335708
 58 N. Chicago Street, Ste. 509
 Joliet, Illinois 60432
 815-242-2000
frank@iltrials.com
eric@iltrials.com

E-FILED
 8/11/2023 5:46 PM
 CYNTHIA A. GRANT
 SUPREME COURT CLERK