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*Eddie Craig*

*Co-host on Rule of Law Radio ([www.ruleoflawradio.com](http://www.ruleoflawradio.com) & [www.logosradionetwork.com](http://www.logosradionetwork.com))*

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## **Cross-examination Practice Script (“Transportation” Cases)**

These terms are to be objected to at all times and for all purposes. They represent the “legal” meaning of these terms and phrases, which have NOT been introduced as evidence in the trial. Without a proper definition and understanding of the legal implications and semantics of that definition, it is nothing more than a legal conclusion made by an unqualified individual incapable of making that conclusion, i.e. the prosecutor and/or the officer. The goal is to get the judge to either:

- a) ignore our legally valid objection and simply overrule us, or
- b) to actually make a legal conclusion for the record as to the proper meaning and application of the term or phrase, which is something the judge will almost NEVER do.

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The Seven Deadly Sins  
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1. This State
2. Police Officer
3. Transportation
4. Motor Vehicle
5. Vehicle
6. Drive, and any grammatical variation thereof (driver, driving, driven, etc.)
7. Operate, and any grammatical variation thereof (operator, operating, operated, etc.)

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The objection to be made:  
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The objection comes in three parts:

1. beginning the objection by clearly stating the specific legal term(s) (*any of the seven deadly sins*) that were used and to which you are objecting, and
2. that the legal meaning of these terms is being assumed, as is their applicability to the accused and his/her actions, and the terms have NOT been properly defined, nor are they currently before the court as facts to be considered, and
3. that the use of those terms by anyone is an inappropriate and premature legal conclusion based entirely on the aforementioned assumption.

Remember, your objection must be timely, within 2-3 seconds maximum, or the judge will overrule you for timeliness.

Also remember, until all terms (the seven deadly sins) have been defined as to their actual legal meaning and applicability to the actions of the accused, and in accordance with the properly applicable statute relevant to the current case and its implied context, you must object to their use. Their proper use and application *requires* the prosecution to prove that the accused was engaged in a regulable activity governed by those terms as defined within that statute, if any definition exists. If the terms are not being defined then everything about their meaning is merely being assumed, and you CANNOT let presumptions/assumptions stand un rebutted in such cases or you WILL lose.

The burden of proof is on the accuser, not the defendant. You cannot violate a law that never applied to you in the first place. In these cases the prosecutor has to prove that the accused was actually engaged in the regulable activity at issue, BUT THEY VIRTUALLY NEVER DO! You **MUST** have been actively engaged in a regulable activity, such as “transportation,” **BEFORE** the rules and regulations governing the regulable activity can possibly apply and be violated. And every such regulable activity **ALWAYS** requires a commercial capacity of some kind. To understand this better, ask yourself this one simple question:

*Can you name a single government issued license or permit that is issued for any purpose other than engaging in some commercial activity for compensation or hire, and that does NOT directly impact the health and/or welfare of the general public? I am willing to bet that you cannot.*

***The Objection:***

*Objection to the use of the term(s) ??? ! Assumes facts not in evidence, not previously agreed to, and requires a legal conclusion (by the fact witness).*

Be aware that the “(by the fact witness)” portion is added ONLY if the term(s) were used by the person on the witness stand. Leave these four words out of the objection if the person using the terms is either the prosecutor or magistrate/judge.

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Cross-examination Practice Script:  
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*Officer Davis, you testified that you work for the city of Austin, is that correct?*

*~~ (Witness) Yes*

*Officer Davis, and do you get paid to work for the city of Austin or are you strictly a volunteer?*

*~~ (Witness) Yes, I get paid*

*Officer Davis, and do you also get paid to write "transportation" citations like the one that you wrote against me?*

*~~ (Witness) Yes*

*Officer Davis, I see that you are in your uniform, are you getting paid to appear here and testify today?*

*~~ (Witness) Yes*

*Ands would you please tell the jury who is paying you to appear and testify here today?*

*~~ (Witness) The City of Austin Police Department*

*Which is a department of the City of Austin, is that correct?*

*~~ (Witness) Yes*

*Officer Davis, do you see anyone else in this courtroom that gets paid to work for the city of Austin?*

*~~ (Witness) Yes*

*Officer Davis, could you point to and identify by informal job title all of the other persons that you recognize as also getting paid by the city of Austin?*

*~~ (Witness) (Points) the prosecutor, and the judge*

*Officer Davis, and how about that lady/gentleman in the back of the room there in the (describe his/her shirt/blouse), do you recognized him/her as someone who works here as a clerk of the court?*

*~~ (Witness) Yes/No (could be either answer)*

*Officer Davis, do you see anyone else in this courtroom that gets paid to work for the city of Austin?*

*~~ (Witness) Yes*

*Did you attempt at any time to determine if I was transporting goods or property for compensation or hire?*

*~~ (Witness) No*

*Officer Davis, at any time during your alleged investigation did you discover, obtain, or otherwise receive from me a passenger manifest?*

*~~ (Witness) No*

*Did you attempt at any time to determine if I was transporting passengers for compensation or hire?*

~~ (Witness) No

*Officer Davis, at any time during your alleged investigation did you discover, obtain, or otherwise receive from me a driver's log book?*

~~ (Witness) No

*Officer Davis, when you stopped me did you attempt at any time to determine if I was actually engaging in business as a private, common or commercial carrier or "driver" that was "operating" a "motor vehicle" for compensation or hire?*

~~ (Witness) No

*Officer Davis, did you at any time whatsoever have any reasonable suspicion or facts leading you to believe that I was engaged in any kind of commercial business use of the highway for compensation or hire?*

~~ (Witness) No

*Officer Davis, is it correct then to summarize your testimony by saying that you never conducted any actual investigation whatsoever intended to discover facts or evidence that would prove that I was engaged in any regulable commercial activity relating to "transportation?"*

~~ (Witness) Yes

~~

*Officer Davis, are you qualified and competent to make binding legal conclusions and determinations relating to matters of law and the facts of this case?*

~~ (Witness) Yes

*~~ Judge, at this time I would like to move the court to enter a ruling on this issue, is Officer Davis qualified and competent to make binding legal conclusions and determinations as to matters of law and the facts of this case?*

~~ (Judge) Yes

*~~ Judge, for my own clarification please, are you now making the legal determination that the witness, who is not a proper judicial officer by any stretch of the imagination, IS absolutely qualified and competent to make binding legal conclusions and determinations relating to the law and facts of this alleged case?*

~~ (Judge) Yes

~~ Thank you judge.

~~

*Officer Davis, what are all the legal elements required to be proven during the evidentiary phase of a criminal trial where the accused is charged with allegedly "Speeding?"*

~~

No matter how the witness answers ask the next two questions preceded by EXACTLY THESE WORDS:

*Let's try an easier one then, what are the two different sets of legal elements required to be proven during the evidentiary phase of a criminal trial where the accused is charged with allegedly "Failing/Failure to ID?"*

*Still can't get one right? Let's try an even easier one then, what are all the legal elements required to be proven during the evidentiary phase of a criminal trial where the accused is charged with allegedly "Public Intoxication?"*

~~

**AVOID any questions that can or do lead to dealing with MERITS!**

~~

*~~ Judge, for my own clarification, are you making the legal determination that the witness is absolutely unqualified and incompetent for the purpose of making any sort of binding legal conclusion or determination relating to the facts of this alleged case?*

*~~ (Judge) Yes*

*~~ Thank you judge.*

*~~ Judge, the court has ruled that the witness is unqualified and incompetent for the purpose of making any sort of binding legal conclusion in this matter, and yet, that is precisely what the witness had to do in order to come to the legal conclusion and determination that I had violated any or all of the necessary elements relating to the alleged statutory offenses at issue in this matter.*

*Therefore, in light of the court's ruling as to the competency of STATE's witness to make those legal conclusions and determinations, I move that the court declare the witness incompetent to testify as to any facts relating to this alleged case.*

*And if the court so declares, and the prosecution has no other witness to call, I further move that this matter be dismissed with prejudice for lack of evidence and a corroborating fact witness.*

*~~ (Witness) No*

*~~ Officer Davis, I just want to be very clear in my understanding of your testimony, are you testifying that you are absolutely certain that you are not competent and qualified to make binding legal conclusions or determinations about matters of law and the facts of this alleged case?*

*~~ (Witness) Yes*

~~ Officer Davis, could you please identify the signature on this document, is it your signature?

~~ (Witness) Yes

~~ Officer Davis, could you please identify the document you have that has your signature?

~~ (Witness) Yes, it's the criminal complaint that I signed.

~~ Thank you. So you were the affiant on that particular criminal complaint, correct?

~~ (Witness) Yes

~~ And it's the same criminal complaint that was filed in this case, correct?

~~ (Witness) Yes

~~ And criminal complaints must be signed and verified under penalty of perjury, isn't that correct?

~~ (Witness) Yes

Now Officer Davis, you previously testified that you conducted no investigation whatsoever to determine if I was engaged in the business of "transportation" for the purpose of using the highways for compensation or hire. So, could you please explain what probable cause you had to stop and accost me?

**NOTE: The ONLY thing the witness can go to is STILL some alleged "Transportation/Motor Vehicle Code" violation, which s/he just testified could NOT possible apply here because they never investigated into it, because they never believed that it was applicable. If it DID apply then he would know that he had to obtain evidence that proved you were engaged in "transportation." He just testified that he did NOT make ANY effort whatsoever to do that, and that he had no reason to believe that you were doing so, therefore, he KNOWS that "transportation" is NOT applicable at all! He can't have it both ways. The BIGGEST problem for them now is that this makes the CITATION and COMPLAINT against you malicious and a knowing, willful and intentional falsification of the record, as well as aggravated perjury by the officer if s/he was the actual affiant on the complaint.**

Officer Davis, are you now testifying that at the time you initiated the "transportation stop" that you DID make a legal conclusion and determination that I was engaged in a regulable business activity involving "transportation" for compensation or hire?.

~~ (Witness) Yes

Officer Davis, I am now thoroughly confused about your testimony. First you claim to have stopped me for some alleged offense under the "Transportation" Code, then you testified that you never suspected or believed that I was engaging in any form of commercial use of the roads, i.e. "transportation," and that you intentionally failed to investigate that possibility at the time, is that correct?

~~ (Witness) Yes

*But the part that is confusing me the most right now is that complaint in your hand. You testified that you are aware that such complaints have to be signed under penalty of perjury, and you also testified that said complaint bears YOUR signature as the affiant, is that correct?*

~~ (Witness) Yes

*Officer Davis, is it your understanding that the complaint in your hand makes a legal allegation against me that I am factually guilty of violating one or more sections of the "Transportation" Code?*

~~ (Witness) Yes

*Then I must tell you Officer Davis, that I am more confused than ever, was it your intention to confess to the crime of aggravated perjury in this court today?*

~~ (Witness) No, I didn't/haven't commit(ed) perjury!

~~ (Prosecution) Objection! The defendant is making irrelevant allegations and trying to muddy the waters of this case!

~~ (You) Judge, the witness testified before this court that s/he never conducted an investigation into any commercial use of the highways, i.e. transportation, at the time of the stop, and the witness further testified that s/he never believed or had probable cause to believe that I was engaged in any commercial use of the highways.

Meanwhile, the witness holds a criminal complaint in his/her hand, and has testified that it bears his/her signature subscribed under penalty of perjury that s/he DOES HAVE REASON TO BELIEVE AND DOES BELIEVE that I committed the commercial "transportation" offense alleged therein. So which is the jury to believe, the witnesses' testimony offered under penalty of perjury that s/he NEVER HAD PROBABLE CAUSE OR REASON TO BELIEVE that I was engaged in any form of commercial use of the highways involving "transportation," or the criminal complaint signed under penalty of perjury that they DID HAVE PROBABLE CAUSE AND DO BELIEVE same?

So which is it? If the witness has lied under oath at any time, then the witness is guilty of perjury, correct? And if that perjury was committed with the intent of maliciously inflicting harm upon me then the witness is guilty of aggravated perjury, correct? Therefore, wouldn't my being forced to appear and stand before this court to answer knowingly and intentionally false and malicious allegations constitute an actionable tort for harm?

(This is what is known in chess as CHECKMATE!)

~~

*Therefore, I move that the witness be disqualified for incompetence, for the crime of aggravated perjury, and for perpetrating fraud upon the court in collusion with the prosecution.*

*I also move the court to charge and arrest the witness for the crime of aggravated perjury and contempt of court.*

*Furthermore, I move the court to charge and arrest the prosecution for failure to properly inquire into the facts of the case and conspiring with the witness in order to perpetrate this malicious*

*prosecution, contempt, and perpetrating fraud upon the court, as well as any appropriate sanctions.*

~~

If the prosecutor objects to the line of questioning as being irrelevant by arguing (his/her erroneous legal conclusion) that such cases have nothing to do with commercial use and/or that “transportation” does not legally relate only to those engaging in commercial activities upon the highway, then, you need to object to that:

*~~ (Prosecutor) Objection! Relevancy/This line of questioning is irrelevant! This case has nothing to do with commercial activity and no one has accused (Mr./Mrs. You) of any commercial activity!*

*Judge, I have a multi-part rebuttal to the prosecutions objection.*

*First, the prosecutor has just used their objection to make their own legal conclusion and determination and inject it illegally into the record in a blatant attempt to give false and misleading testimony relating to three different factual issues before the court:*

- 1) that this line of questioning is irrelevant because there is nothing commercial at issue here, and*
- 2) that this case has nothing to do with commercial activity or commercial use of the highways, and*
- 3) that no one has made a charge against me stating that I was engaged in some form of commercial activity, which given the existence of the criminal complaint in the court record is a knowingly and willfully made and patently false statement.*

*Second, the prosecution has introduced no evidence into the record supporting his/her personal legal conclusion and determination that this matter DOES NOT have anything to do with commercial activity for the purpose of using the highways to engage in the business of “transportation.”*

*Third, These questions go to the heart of my legal theory and defense, which is that all activities relating to “transportation,” and all the rules and regulations codified in the “Transportation” Code which governs those activities, are entirely commercial in nature and apply only to those that are actually engaging in a commercial use of the highways at the time of the alleged offense. Which defense has stated and maintained at all times that s/he was not.*

*Lastly, is the prosecutor seriously asking the court to act on STATE’s behalf for the purpose and intent of denying me in my right of due process by prohibiting me from putting up of a vigorous and legally valid defense in this matter?*

*Therefore, I move that prosecution’s objection be stricken from the record and the jury be instructed to ignore his/her outburst, or in the interest of justice, that this matter be declared a mistrial because of the prosecutor’s blatant misconduct by attempting to offer false and misleading testimony in this matter.*

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Try to stick to these questions. We do not want to wander into areas that will put our case at risk by tangling with arguments or facts dealing with the merits of the allegation(s). We stick STRICTLY to denial of engaging in the regulable activity known as "Transportation."

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This script is a Work in progress. It is always evolving as new facts and information become available. Please keep watch at [www.TaoOfLaw.com](http://www.TaoOfLaw.com) for updates. The site has not yet launched but will be up and running soon.

### **Eddie Craig**

Co-host, Rule of Law Radio / Logos Radio Network

[eddie@ruleoflawradio.com](mailto:eddie@ruleoflawradio.com)

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[www.logosradionetwork.com](http://www.logosradionetwork.com)