

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS )  
)  
Plaintiffs, )  
)  
-vs- )  
)  
JOHN Q. TRUCKER, )  
Defendant. )

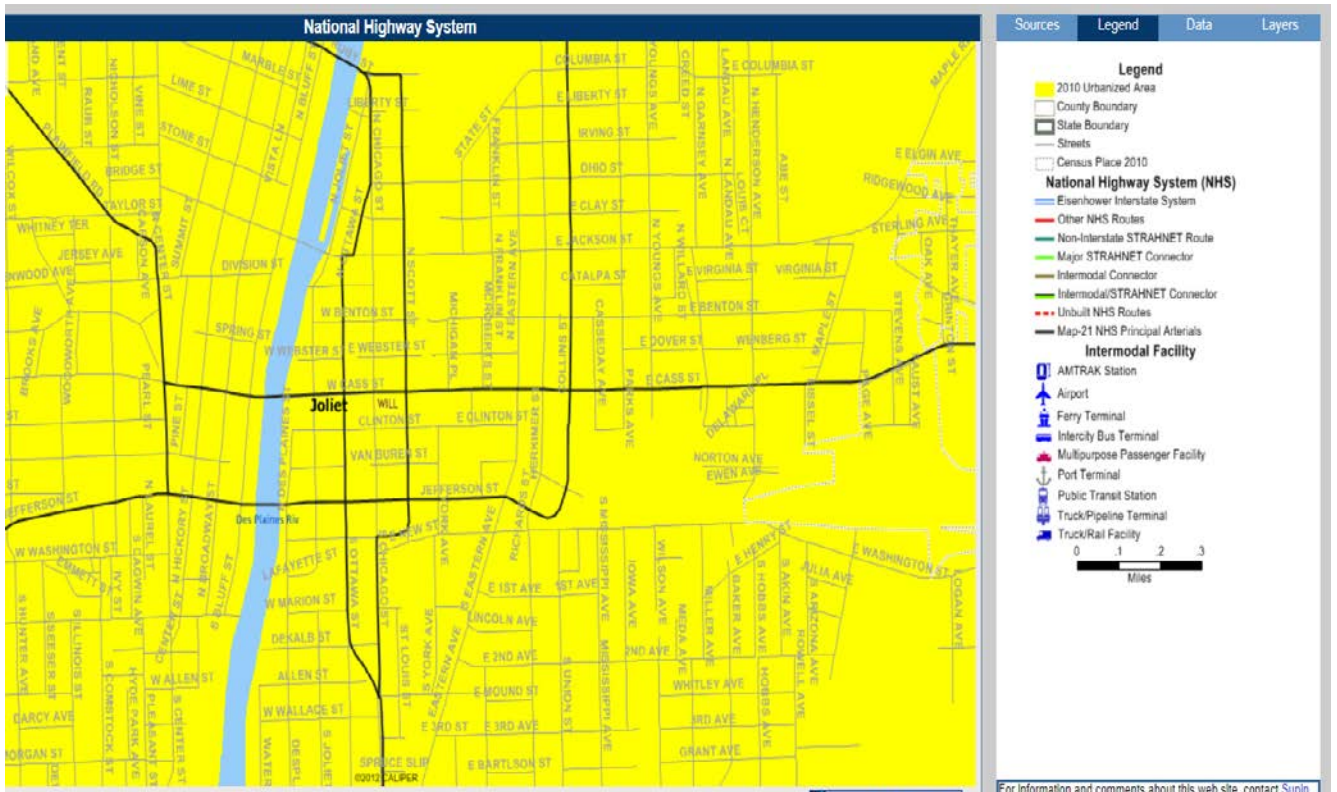
**Case No. 2018 TR**

**AFFIRMATIVE DEFENSE**

NOW Comes the Defendant, JOHN Q. TRUCKER, by and through his attorneys, does hereby assert the attached AFFIRMATIVE DEFENSE, viz:

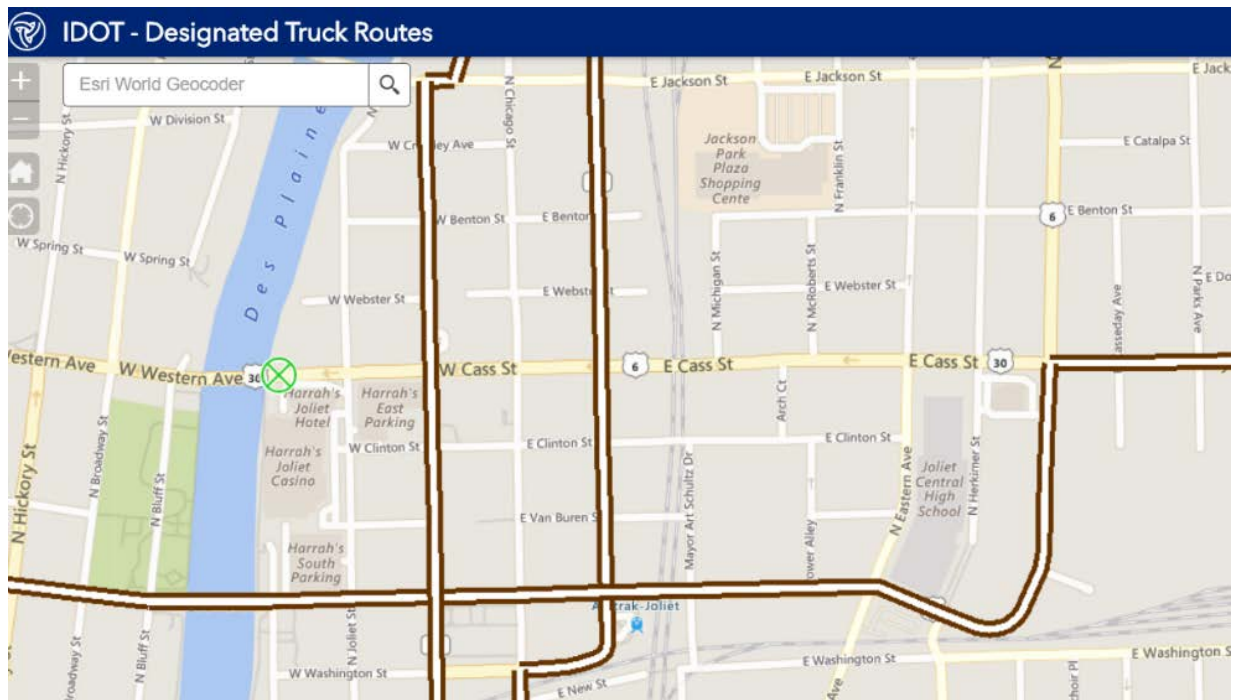
**COUNT I:**  
**23 USC ¶¶127(b) & 625 ILCS 5/15-111(f)**  
**DENIAL OF REASONABLE ACCESS/IMPROPER SIGNAGE**

1. U.S. Route 30, including the part which travels through downtown Joliet, Illinois [locally known as “Cass Street”], is part of the National Highway System (NHS), and is marked and designated as a U.S. Route by the Federal Highway Administration. [<https://hepgis.fhwa.dot.gov/fhwagis/#>];



**[Figure 1]**

2. National Highway System (NHS) routes permit commercial vehicle travel of up to 80,000 lbs. [23 USC 127: 23 CFR § 658.17], and prohibits the denial of access to NHS routes [23 C.F.R. § 658.19(d)].
3. However, due to the poor condition of the Cass Street Bridge [IDOT Structure #099-0101]<sup>1</sup> [See Ex. A], the Illinois Department of Transportation [IDOT] has temporarily closed a portion of U.S. Route 30 to commercial vehicles weighing 62,000 lbs or more;
4. Specifically, from Collins to Center Street, U.S. 30 is no longer an IDOT designated truck route<sup>2</sup>:



[Figure No. 2]

5. The Defendant does **not** contest the authority of IDOT or local officials to temporarily close or reroute traffic on a U.S. Route based upon legitimate safety concerns. Nor does Defendant contest the temporary weight restrictions placed on IDOT Structure 099-0101 [i.e. Cass St. Bridge].
6. In fact, the Manual of Uniform Traffic Control Devices [23 CFR 655 *et. seq.*], which Illinois has adopted into its vehicle code [625 ILCS 5/11-301-304] provides for the manner in which temporary traffic controls devices [i.e. detours] are to be placed by local officials when a temporary re-routing of traffic is warranted.<sup>3</sup>

<sup>1</sup> <http://apps.dot.illinois.gov/bridgesinfosystem/report.aspx?sn=0990101>

<sup>2</sup> <https://idot.maps.arcgis.com/apps/webappviewer/index.html?id=7dd67e99799a4c59a5c21e5175b8a97f>

<sup>3</sup> <https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/part6.pdf>

7. These signing obligations include the placement of proper signs when a detour is needed due to a temporary weight restriction, viz:

**Section 6F.10 Weight Limit Signs (R12-1, R12-2, R12-5)**

**Standard:**

- 01 A Weight Limit sign (see Figure 6F-3), which shows the gross weight or axle weight that is permitted on the roadway or bridge, shall be consistent with State or local regulations and shall not be installed without the approval of the authority having jurisdiction over the highway.
- 02 When weight restrictions are imposed because of the activity in a TTC zone, a marked detour shall be provided for vehicles weighing more than the posted limit.

December 2009

Sect. 6F.08 to 6F.10

<https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/part6.pdf>

8. Notwithstanding the provisions of the MUCTD, no detour signs have been placed along US Route 30 [*see infra*], and the altered IDOT designated truck route denies reasonable commercial access to U.S. Route 30. [See 23 CFR § 658.19(b) “*All States shall make available to commercial motor vehicle operators information regarding their reasonable access provisions to and from the National Network.*”] In short, ‘truck traps’ and last minute notices are not allowed, as such unduly interfere with interstate commerce.
9. In fact, a truck following the IDOT designated truck route would require the operator to drive the wrong way [west] under a railroad overpass [Shown on Figure 3- *infra*] in order to access an alternative truck route.

[Photo of bus travelling **Eastbound** on Jefferson under height restricted rail overpass]



Figure 3

[Trucks would need to travel **Westbound** (wrong way) to access IDOT truck route.]

10. At all times relevant hereto there was in effect 23 USC ¶¶127(b), which provides in pertinent part as follows:

**Reasonable Access.**

“No State may enact or enforce any law denying reasonable access to motor vehicles subject to this title to and from the Interstate Highway System to terminals and facilities for food, fuel, repairs, and rest.” [23 USC ¶¶ 127(b); *See also* 49 U.S.C. § 31114(a); *see also Aux Sable Liquid Prods. v. Murphy*, 526 F.3d 1028, 1037 (7th Cir. 2008);

11. Further, the Illinois General Assembly has likewise provided for reasonable access, viz:

“Vehicles operating under this subsection (g) shall have access for a distance of 5 highway miles on a street or highway included in the system of State highways and upon any street or highway designated by local authorities \* \* \* to points of loading and unloading and to facilities for food, fuel, repairs and rest.” 625 ILCS 5/15–111(f):

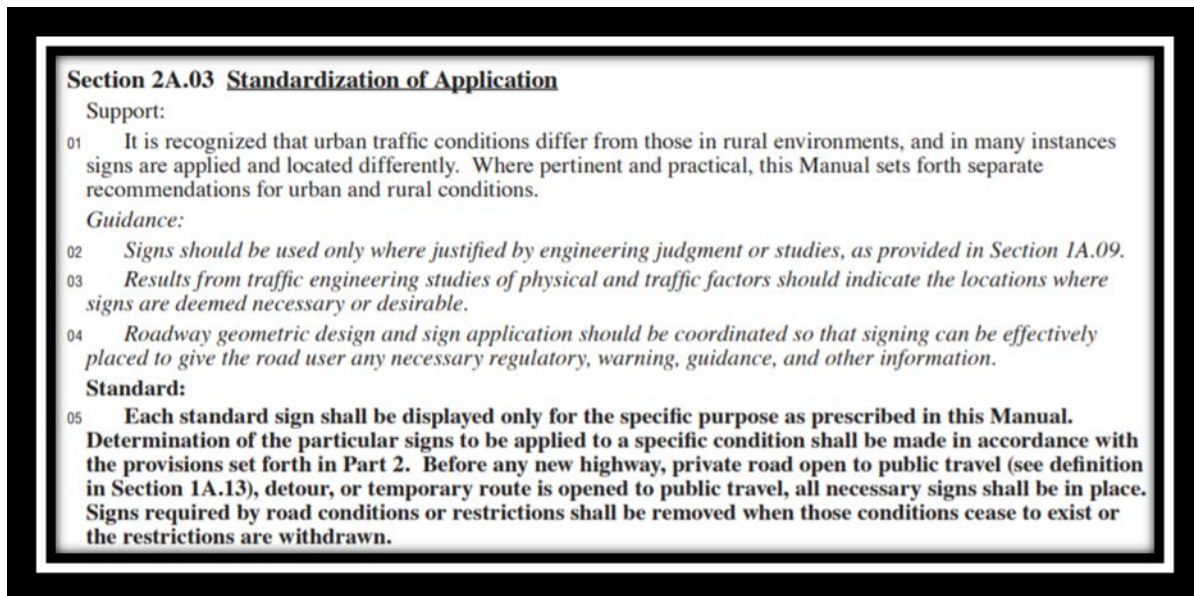
12. In addition to the denial of reasonable access, the temporary change of the maximum permissible weight on IDOT Structure 099-0101 [Cass Street Bridge] has been improperly marked (*i.e.* lacks detour signs), and the essence of traffic violations is the disregard of properly posted control signals. [Ex. B]
13. In fact, to assure national uniformity in traffic signage, and pursuant to 23 USC 109(d), 114(a), 217, 315 and 402(a), Congress has authorized the U.S. Secretary of Transportation to establish certain highway standards, including for the placement and design of traffic control devices; the Manual of Uniform Traffic Control Devices [23 CFR 655 *et. seq.*].
14. As part of its receipt of federal highway funds, and as noted *supra*, the State of Illinois has adopted the federal Manual of Uniform Traffic Control Devices (MUTCD), 625 ILCS 5/11-301-304<sup>4</sup>, which includes for the proper marking of detours [*i.e.* placement of temporary traffic control devices<sup>5</sup>].

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<sup>4</sup> <http://idot.illinois.gov/Assets/uploads/files/Transportation-System/Manuals-Guides-&-Handbooks/Highways/Operations/2009%20ILMUTCD%20-%202014%20update.pdf>

<sup>5</sup> <https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/part6.pdf>

15. No detours signs have been placed along U.S. 30 warning of the upcoming temporary weight restriction on a U.S. Route, and no reasonable opportunity has been afforded the Defendant [as required by federal and state law] to comply with the temporary restriction and detour resulting from the condition of the Cass Street Bridge. In fact, not a single detour sign has been placed along Route 30.
16. Illinois law requires traffic control devices to conform [625 ILCS 5/11-305(d)], and the very purpose of all regulatory signage, as mandated by the MUCTD, is to give roadway users sufficient advance notice so that users may comply with all legal requirements, viz:



[<https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/part2a.pdf>]

17. Based upon the foregoing, the Defendant has been denied reasonable access to and from an NHS route, and his destination, in violation of 23 USC ¶¶127(b), 49 U.S.C. § 31114(a), & 625 ILCS 5/15-111(f), and Defendant prays the State prove, beyond a reasonable doubt that reasonable access exists, and that the advance signage provided to Defendant drivers complies with the MUCTD.

WHEREFORE, the Defendant so prays and moves, and moves for a judgment of acquittal on the charges, and for all such other and further relief this Court deems proper, just and fit.

**COUNT II:**  
**ENTRAPMENT**  
**720 ILCS 5/7-12**

NOW COMES the Defendant, and for Count II of his affirmative defense (ENTRAPMENT), states as follows:

1-15. Defendant repeats and re-alleges the facts set forth in Nos. 1-15, as set forth above.

18. At all times relevant hereto there was in effect 720 ILCS 5/7-12, which provides in pertinent part as follows:

“A person is not guilty of an offense if his or her conduct is incited or induced by a public officer or employee, or agent of either, for the purpose of obtaining evidence for the prosecution of that person. However, this Section is inapplicable if the person was pre-disposed to commit the offense and the public officer or employee, or agent of either, merely affords to that person the opportunity or facility for committing an offense.” [720 ILCS 5/7-12]

19. That the Defendant was entrapped by the State by failing to provide trucks with a way to lawfully traverse the City of Joliet.

**WHEREFORE**, Defendant prays the State prove, beyond a reasonable doubt, that reasonable access exists, and that Defendant was not entrapped, and moves for a judgment of acquittal on the charges, and for all such other and reasonable relief this Court deems proper, just and fit.

**COUNT III:**  
**IMPOSSIBILITY**

1-15. Defendant repeats and re-alleges the facts set forth in Nos. 1-15, as set forth above.

16. That it was impossible for the Defendant to comply with the laws governing weight restrictions, and that the manner in which the street of the City of Joliet are laid-out require the Defendant to commit a traffic offense, or otherwise violate the Illinois Vehicle Code, including driving the wrong way on a one-way street, which poses a danger to the health and welfare of the motoring public.

**WHEREFORE**, Defendant prays the State prove, beyond a reasonable doubt, that reasonable access exists, and that Defendant was not entrapped, and moves for a judgment of acquittal on the charges, and for all such other and reasonable relief this Court deems proper, just and fit.

By: \_\_\_\_\_

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