

**TESTIMONY BEFORE THE
PENNSYLVANIA PUBLIC UTILITY
COMMISSION
EN BANC TRANSPORTATION HEARING**

AUGUST 28, 2014

OFFERED BY SCOTT B. COOPER, ESQUIRE

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**ON BEHALF OF THE PENNSYLVANIA ASSOCIATION
FOR JUSTICE**

Chairman Powelson, members of the Commission and staff. Thank you for inviting the Pennsylvania Association for Justice to speak today. My name is Scott Cooper, and I am an attorney and partner at the law firm of Schmidt Kramer P.C. in Harrisburg. I am also a member of the Pennsylvania Association for Justice (PaJ) and mainly I represent victims injured or killed, and their families, in motor vehicle accidents. I serve as Chair of PaJ's Legislative Policy Committee and I am a past President. I am a contributing editor to a leading treatise on the Pennsylvania Motor Vehicle Financial Responsibility Law, authored and argued several important and leading motor vehicle accident cases in the federal and state Appellate Courts. I also have litigated and tried to verdict many jury trials in this Commonwealth and testified before various legislative committees on insurance and other judicial subjects.

We welcome the opportunity to speak to the Commission today to elaborate on our concern regarding an insurance issue relating to the companies seeking to offer experimental transportation.

First and foremost we believe that it would be wise for the PUC and the Insurance Department to work in conjunction to review and evaluate the insurance policies and forms that are ultimately submitted for review and acknowledgement or approval for use in Pennsylvania, otherwise the coverage that is represented may not be available due to an exclusion or other limitation in the policy.

Many trial lawyers, not only in Philadelphia and Pittsburgh, but all over Pennsylvania see a lot of abuse with the coverage and response from the insurance companies for cab drivers and services. Whether it be simply not responding or denying coverage altogether the companies are not responsive. Thus, we believe that collaboration between the Insurance Department and the PUC would lead to better enforcement of the insurance requirements for transportation services.

As for our specific insurance related concern, many insurance policies provide that a ridesharing service is “excess” and not “primary” coverage. This means a driver’s personal carrier must pay the liability limits primarily and the entire policy exhausted BEFORE the excess policy pays. In these cases, the driver would still have to seek personal auto coverage. In many auto coverages there are exclusions for liability when the injury occurs in a ridesharing arrangement. Thus, no primary level and the excess level will not apply if there is not primary level. The experimental services are in the process of preparing these policies and language and it should all be evaluated and reviewed BEFORE they are authorized to be in service in Pennsylvania.

Last, the Commission should be aware that the current level of minimum insurance in Pennsylvania is antiquated and not adequate. Pennsylvania needs to come into line with other states in liability insurance as to its minimum amount required. Right now, Pennsylvania is one of the lowest.

Motor vehicle liability insurance was mandated in 1974. The mandatory minimum was \$15,000/\$30,000, which is exactly how it still stands today 36

years later. There was an effort in 1984 to increase the minimums to \$20,000/\$40,000, but then Governor Thornburgh promised a veto so it remained as it currently stands, almost 36 years after it was enacted. Thus, at present the Commonwealth still has the same minimal liability coverage as in 1974 when Kellogg's Corn Flakes was 43 cents for an 18 ounce box, Pepsi Cola was 88 cents for 6 12 ounce cans, and a 1.4 ounce Hershey Bar was 15 cents.

People who are the victims of another's wrongdoing have to deal with the injuries and losses to begin with. Being injured but having been injured by a person with only \$15,000/\$30,000 in coverage will leave unpaid losses and being under-compensated only makes matters worse. Thus, we implore the Commission to take this into account in regards to the insurance requirements imposed as part of the licensing and regulation of experimental transportation companies.

I want to thank the Commission for giving us a chance to voice our concerns here today.

Due to the time constraints, I have tried to briefly state PaJ's concerns relating to the insurance policies of experimental transportation companies. Thank you for inviting us to share our concerns with you today. I would be more than happy to answer any questions the Commission members may have.