

**HOURIGAN, KLUGER & QUINN**

A PROFESSIONAL CORPORATION

ALLAN M. KLUGER  
RICHARD M. GOLDBERG  
RICHARD S. BISHOP  
JAMES F. SHOEMAKER  
MICHELLE M. QUINN  
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KEVIN C. QUINN  
BRIAN P. STAHL  
LARS H. ANDERSON  
H. CHRIS KANG

JOSEPH A. QUINN, JR.  
ARTHUR L. PICCONI  
JOSEPH E. KLUGER  
DONALD C. LIGORIO  
RICHARD M. WILLIAMS  
MICHAEL A. LOMBARDO III  
BRIAN G. MCDONNELL  
NICOLE M. SANTO  
JANE T. SMEDLEY

LAW OFFICES  
600 THIRD AVENUE  
KINGSTON, PA 18704-5815  
  
(570) 287-3000  
FACSIMILE (570) 287-8005

SUITE TWO HUNDRED  
434 LACKAWANNA AVENUE  
SCRANTON, PA 18503-2014  
(570) 348-8414  
FACSIMILE (570) 287-8005

\*ALSO MEMBER NY BAR  
\*\* ALSO MEMBER NJ BAR

ANDREW HOURIGAN, JR.  
1948-1978

E-MAIL: [hkq@hkqlaw.com](mailto:hkq@hkqlaw.com)

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

Ext. 1106

[ckang@hkqlaw.com](mailto:ckang@hkqlaw.com)

May 13, 2015

**RECEIVED**

MAY 13 2015

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, Pennsylvania 17120

**RE: Richard Scloppert v. City Delivery Service, Inc.  
Pa. Public Utility Commission Docket No. C-2015-2478408  
Our File No. 07008-289**

To whom it may concern:

Enclosed for filing with the Commission are an original and three copies of City Delivery Service, Inc.'s Preliminary Objections in the above-referenced matter. A copy of this document has been served upon the Complainant as evidenced by the attached Certificate of Service.

If you have any questions, please contact me. Thank you for your attention to this matter.

Sincerely,



H. Chris Kang

HCK/bg

Enclosure

cc: Richard Scloppert (via first class mail and email)

**HOIRIGAN, KLUGER & QUINN**  
A PROFESSIONAL CORPORATION

**RECEIVED**

BY: Richard M. Goldberg, Esquire  
H. Chris Kang, Esquire

ATTORNEY FOR The Respondent

MAY 13 2015

IDENTIFICATION NO. 01758 (RMG); 316782 (HCK)

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

LAW OFFICES  
600 THIRD AVENUE  
KINGSTON, PA 18704-5815  
(570) 287-3000

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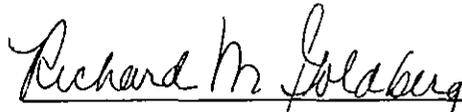
<b>Richard Scloppert</b>	:	
	:	Before the Pennsylvania Public Utility
Complainant	:	Commission
v.	:	
	:	
<b>City Delivery Service, Inc.</b>	:	Docket No. C-2015-2478408
	:	
Respondent	:	

**NOTICE TO PLEAD**

TO: Richard Scloppert  
4250 Bear Creek Blvd.  
Bear Creek Twp, PA 18702

You are hereby notified that the Respondent has filed its Preliminary Objections to your formal complaint in the above-captioned matter. If you wish to defend against the objections set forth in the following pages, you must file an Answer with the Public Utility Commission within ten (10) days after this pleading and notice are served.

Respectfully submitted,  
**HOIRIGAN, KLUGER & QUINN, P.C.**

  
Richard M. Goldberg, Esquire 7/15/15

600 Third Avenue  
Kingston, PA 18704  
(570) 287-3000 (telephone)  
(570) 287-8005 (facsimile)  
Dated: May 13, 2015

I.D. No. 01758  
H. Chris Kang, Esquire  
I.D. No. 316782  
Counsel for the Respondent

**HOURIGAN, KLUGER & QUINN**  
A PROFESSIONAL CORPORATION

BY: RICHARD M. GOLDBERG, ESQUIRE  
H. CHRIS KANG, ESQUIRE

ATTORNEY FOR THE RESPONDENT

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MAY 13 2015

IDENTIFICATION NO. 01758 (RMG); 316782 (HCK)

LAW OFFICES  
600 THIRD AVENUE  
KINGSTON, PA 18704-5815  
(570) 287-3000

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

<b>Richard Scloppert</b>	:	
	:	Before the Pennsylvania Public Utility
Complainant	:	Commission
v.	:	
	:	
<b>City Delivery Service, Inc.</b>	:	Docket No. C-2015-2478408
	:	
Respondent	:	

**PRELIMINARY OBJECTIONS TO FORMAL COMPLAINT**

Respondent City Delivery Service, Inc. ("CDS") hereby files its preliminary objections to the formal complaint filed by Complainant Richard Scloppert as follows:

1. On April 24, 2015, Mr. Scloppert filed a formal complaint against CDS with the Public Utility Commission ("PUC").
2. 52 Pa.Code § 5.101 permits CDS to file preliminary objections to his formal complaint.
3. The PUC should dismiss his formal complaint for: (1) lack of jurisdiction; (2) legal insufficiency of pleading; and (3) insufficient specificity of pleading. *See* 52 Pa.Code § 5.101(a).
4. The PUC is a "creature of legislation" created by the Public Utility Code. *See Pickford v. Pub. Util. Comm'n*, 4 A.3d 707, 713 (Pa.Cmwlth. 2010).

5. The Code outlines the powers and duties of the PUC — including its jurisdiction. *Id.*
6. The PUC may not “exceed its jurisdiction” beyond what is granted under the Code. *Id.*
7. So if a formal complaint raises issues that PUC lacks jurisdiction over, the PUC should dismiss it for lack of jurisdiction. *See* 52 Pa.Code § 5.101(a)(1).
8. In his formal complaint, Mr. Schappert basically complains that CDS failed to pay him full wages.
9. Nothing in the Code suggests that the PUC has jurisdiction over such matters. *See* 66 Pa.C.S. §§ 101–3316.
10. This is especially true since CDS is a “property carrier.”
11. While the PUC does regulate property carriers, it only regulates them for safety and insurance requirements. *See* 52 Pa.Code §§ 21.1 - 41.32.
12. Because the PUC lacks jurisdiction over this dispute, it also follows that Mr. Schappert fails to state a legally sufficient claim. *See* 52 Pa.Code § 5.101(a)(4); *see also Ellen E. Donnelly*, F-2012-2330663, 2013 WL 7216229 (Nov. 12, 2013)(holding that lack of jurisdiction means the party fails to state a valid claim as well).
13. Finally, Mr. Scloppert’s formal complaint must be dismissed for “insufficient specificity.” *See id.* at § 5.101(a)(3).
14. The law is clear that PUC must dismiss a complaint if it lacks enough fact to “permit the opposing party an opportunity to formulate a meaningful response.” *See Tremayne Shanault Lewis*, C-2013-2357268, 2013 WL 3355962 (May 24, 2013).
15. The formal complaint prevents CDS from formulating a meaningful response since it lacks any concrete facts as to how CDS allegedly fail to pay the wages due to Mr. Scloppert. Among other things, it lacks any detail about the dates, time, persons, or any other detail showing that CDS committed the alleged wrong.

For the above reasons, the PUC should grant CDS's preliminary objections and dismiss Mr. Scloppert the formal complaint with prejudice.

Respectfully submitted,  
**HOURIGAN, KLUGER & QUINN, P.C.**

A handwritten signature in black ink, appearing to read 'R. Goldberg', is written over a horizontal line.

600 Third Avenue  
Kingston, PA 18704  
(570) 287-3000 (telephone)  
(570) 287-8005 (facsimile)  
Dated: May 13, 2015

Richard M. Goldberg, Esquire  
I.D. No. 01758  
H. Chris Kang, Esquire  
I.D. No. 316782  
Counsel for the Respondent

**HOURIGAN, KLUGER & QUINN**  
A PROFESSIONAL CORPORATION

BY: Richard M. Goldberg, Esquire  
H. Chris Kang, Esquire

ATTORNEY FOR The Respondent

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IDENTIFICATION NO. 01758 (RMG); 316782 (HCK)

MAY 13 2015

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KINGSTON, PA 18704-5815  
(570) 287-3000

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Richard Scloppert	:	
	:	Before the Pennsylvania Public Utility
Complainant	:	Commission
v.	:	
	:	
City Delivery Service, Inc.	:	Docket No. C-2015-2478408
	:	
Respondent	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

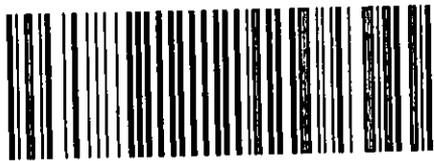
By First Class Mail and Email  
Richard Schappert  
4250 Bear Creek Boulevard  
Bear Creek Twp, PA 18702  
rich5245@yahoo.com

Respectfully submitted,  
**HOURIGAN, KLUGER & QUINN, P.C.**



H. Chris Kang, Esquire  
I.D. No. 316782  
Counsel for the Respondent

Dated: May 13, 2015



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HeK

HOURIGAN, KLUGER & QUINN  
A PROFESSIONAL CORPORATION  
600 THIRD AVENUE  
KINGSTON, PA 18704

TO:

SECRETARY  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET  
HARRISBURG, PA 17120

FIRST CLASS MAIL