

  
**JOHN A. PILLAR**  
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Pittsburgh, PA 15234

April 27, 2016

Re: Scott Luellen v.  
Maroadi Transfer & Storage, Inc.  
Docket C-2016-2539599  
File No. 3006

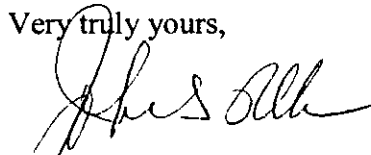
C-2016-2539599

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Dear Secretary Chiavetta:

Enclosed please find the original Preliminary Objections and Notice to Plead on behalf of Maroadi Transfer & Storage, Inc. in the above captioned proceeding. A copy has been served in accordance with the attached Certificate of Service on the Complainant.

Very truly yours,

  
JOHN A. PILLAR

sw  
Enclosures  
cc: Scott Luellen  
Maroadi Transfer & Storage, Inc.

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Before the  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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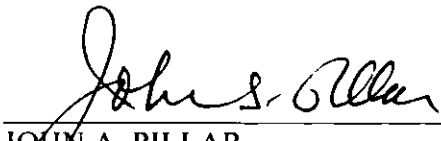
SCOTT LUELLEN, )  
Complainant, )  
 )  
v. ) Docket C-2016-2539599  
 )  
MAROADI TRANSFER & )  
STORAGE, INC., )  
Respondent. )

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**NOTICE TO PLEAD**

Pursuant to 52 Pa. Code § 5.101 and 5.62(c), you are hereby notified that, if you do not file a written response denying or correcting the enclosed Preliminary Objections of Maroadi Transfer & Storage, Inc. within ten (10) days from the date of service of the within Preliminary Objections, pursuant to 52 Pa. Code § 5.101(f)(1), the facts set forth by Maroadi Transfer & Storage, Inc. in the Preliminary Objections may be deemed to be true, thereby requiring no other proof. All pleadings, such as a response to the enclosed Preliminary Objections, must be filed with the Secretary of the Pennsylvania Public Utility Commission with copies served on all other parties to this proceeding. Failure to respond to the Preliminary Objections could result in the dismissal of your case.

Dated this 27<sup>th</sup> day of April, 2016.

  
\_\_\_\_\_  
JOHN A. PILLAR  
Attorney for MAROADI TRANSFER &  
STORAGE, INC., Respondent

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MAROADI TRANSFER & )  
STORAGE, INC., )  
Respondent. )

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**PRELIMINARY OBJECTIONS OF RESPONDENT,  
MAROADI TRANSFER & STORAGE, INC.**

Respondent, Maroadi Transfer & Storage, Inc., (hereinafter Maroadi or Respondent), pursuant to 52 Pa. Code § 5.101(a)(1) and (5), respectfully petitions this Honorable Commission to dismiss the instant complaint based on lack of Commission jurisdiction. In support hereof, Respondent states as follows.

1. On April 13, 2016, Maroadi was served with a formal complaint filed by Scott Luellen (hereinafter Complainant). A copy of the complaint is attached hereto as Exhibit 1.

2. The complaint alleges that on December 13, 2014, the Complainant and another person unnamed in the complaint hired Respondent to move household goods. The complaint states that a subcontracting moving company, namely Shamrock Moving & Storage, actually provided the required transportation service and that during the loading of the household goods at the origin, the Complainant was allegedly injured.

3. Although the Complainant identifies himself as a party who hired the Respondent to transport household goods on or about December 13, 2014, the Complainant has produced no evidence of a contract between the Respondent and the Complainant; the Respondent has no

knowledge of the Complainant and had no contract with the Complainant to move household goods.

4. The relief requested by the Complainant is as follows: (a) payment of all past and future medical expenses; (b) compensation for pain and suffering and disability; and (c) that Maroadi be “disallowed to operate in the Commonwealth” if it is operating with “insufficient” or “unusable” liability and injury insurance.

5. Pursuant to 52 Pa. Code § 5.101, preliminary objections may be filed against the complaint seeking dismissal for lack of Commission jurisdiction over the subject matter of the complaint and based upon the lack of capacity of the Complainant to file this action and failure to join a necessary party, namely the actual contracting party in connection with the moving contract. 52 Pa. Code § 5.101(a)(1) and (5).

6. In deciding preliminary objections, the Commission must determine, based on the factual pleadings of the petitioner, if relief or recovery is possible. Roc v. Flaherty, 527 A.2d 211 (Pa. Commw. 1985).

7. A complaint must be able to recover under the law to survive a preliminary objection. Milliner v. Enck, 709 A.2d 417, 418 (Pa. Super. Ct. 1998) (“Preliminary objection should be sustained where it appears with certainty that, upon the facts averred, the law will not allow the plaintiff to recover”). Complainant must establish that he is an actual party to a contract with the Respondent; otherwise Complainant lacks standing to file this complaint.

8. All of the non-moving party’s averments may be taken as true for the sake of deciding the preliminary objection. County of Allegheny v. Commw. of Pa., 490 A.2d 402 (Pa. 1985).

9. The Commission does not, however, need to accept “unwarranted inferences from facts, argumentative allegations, or expressions of opinions.” Finegold v. McNulty, 2009 Phila.Ct.Com., PL Lexis 167, \*3.

10. Section 703 of the Public Utility Code, 66 Pa. C.S.A. § 703(b) provides that the Commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary to the public interest.

11. A hearing is required only when there is a disputed question of fact, and not to resolve questions of law. Dee-Dee Cab, Inc. v. Pa. P.U.C. 817 A.2d, 539 (Pa.Commw.Ct. 2003), petition for allowance of appeal denied, 836 A.2d 123 (Pa. 2003). In this complaint, accepting the facts as pleaded, Maroadi is entitled to dismissal of the complaint as a matter of law with respect to all of the prayers for relief.

12. As to the Commission's jurisdiction, it is clear that the Commission has no jurisdiction over the request for relief sought in the complaint for payment of past and future medical expenses and compensation for pain, suffering and disability.

13. In the only other request for relief, which is that Maroadi be “disallowed to operate in the Commonwealth until all violations are cured”, the only violation alleged is that Maroadi may be operating with liability or injury insurance that is “insufficient (sic) or so disorganized (sic) as to be unusable.”

14. The Complainant has presented no evidence in his complaint that he was the contracting party in connection with the shipment involved.

15. The Commission can take official notice of the fact that Maroadi is a carrier in good standing in the Commonwealth of Pennsylvania and has on file proof of the requisite

insurance which it has maintained with the Commission for many years including on the date the alleged incident occurred.

16. The complaint does not allege that Maroadi does not have the requisite insurance on file. There is no need, therefore, to schedule a hearing on a matter of which the Commission has knowledge from filings that are of record with the Commission, namely the filings of Form E and Form H of Maroadi which have been continuously of record for many years.

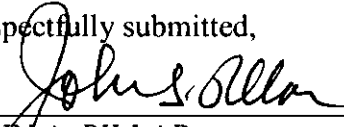
17. The Commission has no jurisdiction to grant damages for alleged personal injuries or for pain and suffering nor over the alleged insufficiency (sic) of Respondent's liability insurance since Respondent's filings with the Commission demonstrate it maintains the insurance coverage required by Commission regulations.

18. For the reasons set forth above, the complaint should be dismissed as a matter of law.

#### **REQUEST FOR RELIEF**

WHEREFORE, for the reasons set forth above, Maroadi Transfer & Storage, Inc. respectfully requests that your Honorable Commission summarily dismiss the complaint.

Respectfully submitted,

  
\_\_\_\_\_  
JOHN A. PILLAR  
Attorney for MAROADI TRANSFER &  
STORAGE, INC., Respondent

John A. Pillar  
Attorney at Law  
150 Green Commons Drive  
Pittsburgh, PA 15243  
412-343-0970  
e-mail: [pillarlaw@verizon.net](mailto:pillarlaw@verizon.net)

C-2016-2539599

**COPY**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Formal Complaint**

Filing this form begins a legal proceeding and you will be a party to the case. If you do not wish to be a party to the case, consider filing an informal complaint. To complete this form, please type or print legibly in ink.

- 1. Customer (Complainant) Information Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name: Scott Luellen  
 Street/P.O. Box: 14 Marlboro Street  
 City: Belmont State: MA Zip: 02478  
 County: (Formerly of Allegheny County, 7105 Schoyer Ave., Pittsburgh, PA)

Telephone Number(s): (412) 915-7468 (mobile)

E-mail Address (optional): SEricLuellen@gmail.com

Utility Account Number (from your bill): Carrier ID Number: A-00097588 -- Claim No.: 142160

- 2. Name of Utility or Company (Respondent) Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

MAROADI TRANSFER & STORAGE, INC.  
 1801 Lincoln Hwy, North Versailles, PA 15137  
 Tel. 412-243-4343

- 3. Type of Utility Service Check the box listing the type of utility service that is the subject of your complaint (check only one):  ELECTRIC  WASTEWATER/SEWER  GAS  TELEPHONE/TELECOMMUNICATIONS (local, long distance)  WATER  MOTOR CARRIER (e.g. taxi, moving company, limousine)  STEAM HEAT

- 4. Reason for Complaint What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. Your complaint may be dismissed without a hearing if you do not provide specific information.

- The utility is threatening to shut off my service or has already shut off my service.
- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.
- Other (explain).

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Exhibit 1

**ANSWER:**

On December 13, 2014, my partner and I hired this moving company to transfer our household goods. Subsequently, and without our advance knowledge, they hired contractors and sub-contractors to do the work on their behalf that were unlicensed in the Commonwealth of Pennsylvania (Shamrock Moving & Storage). Moreover, while at the property, their subcontractor failed to properly operate the safety features of their moving equipment causing a serious personal injury that has resulted in thousands of dollars of medical expenses, partial disability, and possibly permanent damage. After extensive correspondence, their alleged insurer has emailed that Maroadi either was uninsured, under-insured, or lacks sufficient documents to know which policies applied to what equipment and when such that their liability and personal insurance policies are unusable. In any event, the regulated carrier has failed to make any effort to cure, adjust, correct, or remedy the matter, despite its General Manger, James Messner, orally accepting responsibility, to remedy the personal injury and damage caused by its agent.

**5. Requested Relief**

How do you want your complaint to be resolved? Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space. Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

**ANSWER:**

I would like the regulated carrier to: (a) pay any and all past and future medical expenses; (b) compensate me for pain, suffering, and disability; and, (c) if operating with liability and injury insurance that is insufficient or so disorganized as to be unusable, as suggested by their adjuster, to be disallowed to operate in the Commonwealth until all violations are cured.

**6. Protection From Abuse (PFA)**

Has a court granted a "Protection From Abuse" order that is currently in effect for your personal safety or welfare? The PUC needs this information to properly process your complaint so that your identity is not made public. Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement. Has a court granted a "Protection From Abuse" order for your personal safety or welfare? YES  NO  If your answer to the above question is "yes," attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. Prior Utility Contact a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?  
YES  NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c.

If relevant.

7b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint? YES  NO  Note:



You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

7c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why. Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

**ANSWER:**

I have repeatedly e-mailed or telephoned the regulated carrier. Its General Manager has repeatedly accepted responsibility for the situation and injury caused by its contractor and agent and promised to "make it right;" however, has taken absolutely no actions over 16 months to actually do so.

**8. Legal Representation**

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing. If you are already represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

I am presently representing myself

**9. Verification and Signature**

You must sign your complaint. Individuals filing a Formal Complaint must print or type their name on the line provided in the verification paragraph below and must sign and date this form in ink. If you do not sign the Formal Complaint, the PUC will not accept it.

Verification:

I Scott Luellen hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

  
\_\_\_\_\_  
(Signature of Complainant)

4/12/2016  
\_\_\_\_\_  
(Date)

Before the  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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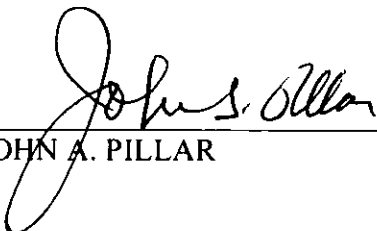
SCOTT LUELLEN,	)	
Complainant,	)	
	)	
v.	)	Docket C-2016-2539599
	)	
MAROADI TRANSFER &	)	
STORAGE, INC.,	)	
Respondent.	)	

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**VERIFICATION**

I, JOHN A. PILLAR, hereby declare that I am the attorney for Maroadi Transfer & Storage, Inc. and that as such I am authorized to make this verification on its behalf; that the facts set forth in the foregoing pleading are true and correct to the best of my knowledge, information and belief; and that I make this verification subject to the penalties of 18 Pa. C.S. §4904 relating to false statements to authorities.

Date: April 27, 2016

  
\_\_\_\_\_  
JOHN A. PILLAR

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Before the  
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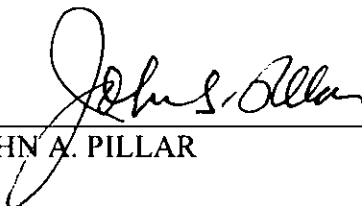
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**CERTIFICATE OF SERVICE**

I, JOHN A. PILLAR, hereby certify that I have this day served a copy of Maroadi Transfer & Storage, Inc.'s Preliminary Objections in the above matter upon the Complainant, properly addressed, postage prepaid, and mailed to:

Scott Luellen  
14 Marlboro Street  
Belmont, MA 02478

Dated at Pittsburgh, PA this 27 day of April 2016.

  
\_\_\_\_\_  
JOHN A. PILLAR

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