

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

SCOTT LUELLEN,

Complainant

v.

Docket C-2016-2539599

MAROADI TRANSFER & STORAGE, INC.

1801 Lincoln Hwy, North Versailles, PA 15137

Respondent

**COMPLAINANT'S FIRST MOTION TO COMPEL ANSWERS
TO INTERROGATORIES & PRODUCTION OF DOCUMENTS**

NOW COMES Complainant and moves this Court compel Respondent to fully and completely answer interrogatories and produce any and all documents requested, and in support states:

1. Generally, Respondent's objections to Complainant's interrogatories are without legal merit because they are the collection of interrogatories written and recommended by the Pennsylvania Bar Association in cases of personal injury by a motor vehicle.¹ Therefore, it strains counsel's credulity to argue that the interrogatories are overly broad, burdensome, or disallowed under Pennsylvania Code. Moreover, as a member of the Pennsylvania Bar Association, counsel either knows or reasonably should know that objecting to the

¹ See

<http://www.philadelphiabar.org/WebObjects/PBAReadOnly.woa/Contents/WebServerResources/CMSResources/PlaintiffInterrogatoriesMotorVehicleLiability.pdf>

interrogatories that governing body wrote and recommend its members to use constitutes a frivolous and abusive motions practice before this Commission.

2. Generally, Respondent objects to fully and completely answering the formal complaint and participating in discovery because it legally argues Respondent cannot be liable for injuries its motor vehicles or employees did not directly cause; however, it is well-settled law in Pennsylvania that “masters” or primary contractors may have liability for all elements of Pennsylvania law under the doctrine of *respondeat superior*. Moreover, it is also well-settled law in Pennsylvania that whether or not a primary contract (Respondent) has liability for statutory performance, liability, and negligence is a matter reserved for a jury at trial (See *Norton v. Railway Express Agency, Inc.*, 412 F.2d 112 (3d Cir. 1969); *Mauk v. Wright*, 367 F. Supp. 961 (M.D.Pa. 1973); *Anzenberger v. Nickols*, 198 A.2d 309 (Pa. 1964); and, *Schneider v. Albert Einstein Medical Center*, 390 A.2d 1271 (Pa. Super. 1978)), as such it is always a frivolous legal argument at preliminary stages, as Respondent is doing here.
3. Complainant’s interrogatories obviously applied to any and all contractors or subcontractors given the facts of the case and instructions; however, Respondent in its limited answers attempts to be “cute” with the Commission and pretend they only applied to their direct employees by presuming it cannot have respondeat superior liability as the work supervisor, a legal conclusion that it is impermissible for the Respondent to make at any stage, much less at preliminary stages of discovery.
4. Specific issues with Respondent’s incomplete, falsified, and misleading answers follow:
 - a. At ¶ 4(a), Respondent made an affirmative misrepresentation under oath pretending that its liability insurer was “First Niagara,” which has never insured Respondent and hid the fact they were insured by Granite State and, now, Vanliner.

- b. At ¶ 4(b), Respondent refused to disclose its insurance coverage limits and conditions;
 - c. At ¶ 4(c), Respondent refused to identify or provide any details on its secondary insurance policies or carriers.
5. Respondent conceded in the answer to Complainant’s First Request for the Production of Documents that it has only partially complied.
 6. Respondent alleges (at p. 2, ¶ 2 of its partial production) that it cannot produce documents because it never received any claim from Complainant; however, goes on to attach as many as nine (9) emails it agrees are true and correct that it received from Complainant attempting to initiate an investigation, reimbursement, and compensation from Respondent. Moreover, these communications were sent directly to Mr. Messmer, the General Manager of Respondent who is answering discovery under oath, and Mary Maroadi, the owner of the Respondent. Essentially, Respondent has made a frivolous discovery objection that their own records and statements under oath demonstrate is untrue.
 7. Similar to the interrogatories, the request for production of documents is the model request written, approved, and promulgated by the Pennsylvania Bar Association. Therefore, Respondent’s general objection that the requests are overly broad and unduly burdensome (p. 2., ¶ 3) are frivolous and without merit. For Respondent’s objections to be true, it would mean that the body regulating the practice of law in the Commonwealth doesn’t know the law and promulgated improper discovery templates.² Similarly, Respondent’s general objection that the requests are “vague, oppressive, and seeks information that is not relevant” is also incredible because the Pennsylvania Bar Association surely did not write, endorse,

² See <https://www.courts.phila.gov/pdf/forms/civil/Plaintiff-RFP-to-Defendant-Final-10-30-14.pdf>

and promulgate to its members production requests that would violate Pennsylvania code.

Respondent's general objections to requests for production are without legal merit, audacious and incredible claims inconsistent with the ethical practice of law in the Commonwealth, and constitute sanctionable frivolous motions practice.

8. Respondent objects to the request for production number one alleging it is work-product or communication protected by attorney-client privilege; however, it is well-settled that when a claim is made that a statutory or compulsory insurance investigation was failed to have been made, said documents are typically not considered to have been produced in anticipation of litigation, which is required for them to be privileged. Instead, said documents are considered to be created in the ordinary course of business because insurers and insured have contractual and statutory obligations, regulated by this Commission in the latter case, to investigate and adjust a claim. Moreover, if documents exist that are protected by attorney-client or work-product privilege, the instructions required Respondent to create a privilege log itemizing each document, a general description, and what privilege protects it. Respondent made no effort to create a privilege log, only hide behind an unmeritorious privilege claim to minimize and avoid discovery.
9. Respondent has crudely cut and pasted email communications in response to discovery requests to hide the identity of senders and show only parts of long threads. They are required to provide complete email threads, unredacted, unless and until they have leave from this Court, which they have neither moved for nor secured.
10. There are obvious omissions from the Respondent's production. For example, there are numerous emails from Respondent to Vanliner, whom did not insure Respondent until May 5, 2016 asking for assistance and forwarding claims and Complainant's communications;

however, Respondent has produced no communications with Granite State or AIG, its ACTUAL insurance carrier at the time of the incident.

VERIFICATION

I, Scott Luellen, hereby state that the facts above set forth 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.

/s/ _____
Scott Luellen
14 Marlboro Street
Belmont, MA 02478
Tel. 412-915-7468
E-mail: SEricLuellen@gmail.com

Wednesday, June 29, 2016
Date:

CERTIFICATE OF SERVICE

I, Scott Luellen, hereby certify that a true and correct copy of the foregoing motion was sent via pre-paid, first-class US Postal Service to John A. Pillar, Esq., Counsel for Respondent MAROADI, 150 Green Commons Drive, Pittsburgh, PA 15243 on or before Tuesday, the 29th day of June 2016.³

/s/ _____
Scott Luellen
14 Marlboro Street
Belmont, MA 02478
Tel. 412-915-7468
E-mail: SEricLuellen@gmail.com

Wednesday, June 29, 2016
Date:

³ A courtesy copy was also sent to Mr. Pillar via his electronic mail address found on the pleadings (pillarlaw@verizon.net) and to the General Manager (JMessmer@maroadi.com) and owner (Mary@Maroadi.com) of MAROADI MOVING & STORAGE, Inc.