

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

SCOTT LUELLEN,

Complainant

v.

Complaint Docket No. C-2016-2539599

MAROADI TRANSFER & STORAGE, INC.,

Respondent

PROPOSED ORDER

AND NOW, this ____ day of _____, 2016, Complainant Scott Luellen's Motion for Summary Judgment and Brief in Support thereof, and any responses thereto, it is hereby ORDERED and DECREED that

- (1) Respondent's Motion for Summary Judgment is DENIED; and,
- (2) Complainant's Motion for Summary Judgment is GRANTED.

BY:

THE COURT: HON. STEVEN K. HAAS
Administrative Law Judge

C-2016-2539599 - SCOTT LUELLEN v. MAROADI TRANSFER & STORAGE INC.

SCOTT LUELLEN

14 MARLBORO STREET

BELMONT MA 02478

412.915.7468

ACCEPTS E-SERVICE

ALEX K. YODER, ESQUIRE

100 CORPORATE CENTER DRIVE SUITE 201

CAMP HILL PA 17011

717.651.3515

ACCEPTS E-SERVICE REPRESENTING MAROADI TRANSFER & STORAGE INC.

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

SCOTT LUELLEN,

Complainant

v.

Complaint Docket No. C-2016-2539599

MAROADI TRANSFER & STORAGE, INC.,

Respondent

NOTICE TO RESPONDENT

PURSUANT TO 52 P A. CODE § 5.102 MOTIONS FOR SUMMARY JUDGMENT AND JUDGMENT ON THE PLEADINGS YOU ARE HEREBY NOTIFIED TO SERVE AN ANSWER OR OTHER RESPONSIVE PLEADING TO THIS MOTION WITHIN 20 DAYS OF SERVICE, OR WITHIN THE TIME PERMITTED BY THE COURT

COMPLAINANT'S MOTION FOR SUMMARY JUDGMENT

Complainant, Scott Luellen, hereby files this instant Motion and respectfully requests summary judgment as to Complainant's claims because the Respondent procedurally defaulted on Requests for Admissions by over 100 days in which it conceded this Court's jurisdiction thrice over, and in any event, all events took place outside the scope of interstate commerce exclusively within the Commonwealth of Pennsylvania, and in support states:

1. Complainant Scott Luellen (hereinafter "Luellen") filed an Amended Formal Complaint in this action on May 3, 2016 alleging various claims against Maroadi arising out of a contract for packing, loading, storage, and moving services.

2. Maroadi (under counsel who later resigned) filed its Answer, New Matter and Preliminary Objections in response to the Amended Complaint on May 24, 2016.
3. By Order of Court dated June 30, 2016, this Court DENIED Maroadi's Preliminary objections, and noted it lacked jurisdiction to rule on any financial claims, which had been present in the original complaint, but actually removed from the amended complaint.
4. Luellen subsequently filed numerous motions including discovery motions for production of documents, interrogatories, and Requests for Admissions, served on July 10, 2016.
5. Request for Admission number 32 read: "Admit that household goods loaded at 7105 Schoyer Avenue, Pittsburgh, PA in December 2014 were loaded entirely within the Commonwealth of Pennsylvania (e.g., that the packing of goods was not interstate)."
6. Request for Admission number 33 read: "Admit that Respondent does not registered to conduct business in any other state than the Commonwealth of Pennsylvania."
7. Request for Admission number 34 read: "Admit that Respondent could not have been engaged in interstate commerce in December 2014 because it itself is not licensed to conduct business in any other territory."
8. Maroadi acknowledged receipt of these discovery motions (and does so again in ¶ 4 of its Motion for Summary Judgment) and choose to partially respond to the requests for production and interrogatories; however, Maroadi refused to respond to Complainant's Requests for Admissions within the statutorily required 20 calendar days under 52 Pa. Code § 5.350(c). Title 52 Pa. Code § 5.350(c) reads: "The matter is admitted unless, within 20 days after service of the request, the party to whom the request is directed answers or makes an objection to the matter, signed by the party or by his attorney."

9. Maroadi has now refused to respond to Complainant's Request for Admissions for over 120 days, or 500% of the statutorily deadline. Nor has Maroadi moved for additional time to respond, nor a motion for a protective order, nor was any protective order ever issued.
10. Therefore, on August 12, 2016, Complainant timely electronically filed a Motion to Deem Admissions Admitted under 52 Pa. Code § 5.350. The Court did not enter its Order holding this proceeding in abeyance until August 16, 2016, by which time Maroadi had already procedurally defaulted by two weeks. Maroadi also choose to never oppose the Motion to Deem Admissions Admitted for the last 87 days after it was served. At no time were Complainant's Request for Admissions, or Motion to Deem Admissions Admitted stayed prior to Maroadi's statutory and procedural default on July 30, 2016.
11. On October 5, 2016, a prehearing conference call was held with the Court and the parties; however, no witnesses were sworn or testified. No evidence was admitted to the record.
12. This Court requested that both parties file cross motions for summary judgment on the issue of whether the Commission has jurisdiction in an Order dated October 5, 2016, and this Motion for Summary Judgment followed.
13. While the Pennsylvania Utilities Commission's (hereinafter "Commission") jurisdiction is limited to intrastate commerce under 66 Pa. C.S. § 701, the claims made in this case do not involve instate transportation, they exclusively involve discrete elements of work that had nothing to do with interstate transportation. Maroadi was hired, and partially supervised, the packing and loading of materials into a storage and transfer unit across numerous days exclusively within the Commonwealth of Pennsylvania. Whether or not another company

eventually, a day or more later, transferred the storage container to another location has no relevance to this case.

14. There is a direct transportation-related corollary that is instructive in the instant case. Just as the Federal Motor Carrier Safety Administration (FMCSA) has exclusive jurisdiction over vehicles while in transit between states, the Federal Aviation Administration (FAA) or Federal Bureau of Investigation (FBI) have exclusive jurisdiction over aircraft between states. However, when an incident occurs on an aircraft within the Commonwealth of Pennsylvania, after or prior to it entering interstate transfer, the Commonwealth of Pennsylvania has EXCLUSIVE jurisdiction.

15. Accordingly, Luellen's Amended Complaint is not only within the exclusive jurisdiction of the Commonwealth of Pennsylvania, Maroadi has willfully and egregiously procedurally defaulted, and under statutory guidelines, this Court “shall” and must declare them in default and having conceded jurisdiction in any event.

WHEREFORE, Complainant SCOTT LUELLEN, respectfully requests that this Honorable Court grant its Motion for Summary Judgment, and in the alternative, order a hearing to present evidence and rule on the merits of the Formal Complaint, and GRANT such other relief as the Court deems fair and just.

Respectfully submitted,

/s/

SCOTT LUELLEN,
14 Marlboro Street
Belmont, MA 02478

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
E-mail: SEricLuellen@gmail.com

Sunday, November 13, 2016
Date:

CERTIFICATE OF SERVICE

I, Scott Luellen, hereby certify that a true and correct copy of the foregoing Motion for Summary Judgment was sent via e-Service to Counsel for Maroadi Transfer & Storage, Inc., 1801 Lincoln Hwy, North Versailles, PA 15137 on or before Sunday, November 13, 2016 to:

MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN

Alex Yoder, Esquire

ID P A 316694

100 Corporate Center Drive, Suite 201

Camp Hill, PA 17011

(717) 651-3505

/s/ _____

Scott Luellen

14 Marlboro Street

Belmont, MA 02478

E-mail: SEricLuellen@gmail.com

Date: Sunday, November 13, 2016