

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Robert Ely	:	
	:	
v.	:	C-2016-2571984
	:	
Rasier-PA LLC	:	

INITIAL DECISION

Before
Joel H. Cheskis
Deputy Chief Administrative Law Judge

INTRODUCTION

This decision grants a Transportation Network Company’s (TNC) motion to dismiss treated as a motion for judgment on the pleadings because, even when accepting as true all well-pleaded allegations of the complainant and considering those facts admitted by the complainant against him, the record shows that there are no facts at issue and the moving party is entitled to judgment as a matter of law.

HISTORY OF THE PROCEEDING

On October 18, 2016, Robert Ely filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against Rasier – PA LLC (Rasier), Docket Number C-2016-2571984. Mr. Ely attached to his complaint a separate explanation of the reasons for his complaint. In his attachment, Mr. Ely averred, among other things, that he is a consumer and a driver for Uber and complained about the compensation provided to Uber drivers, stating that Uber is forcing its drivers to operate at below cost and the drivers are unable to earn a living wage. Mr. Ely also averred that the Commission has regulations that prohibit conventional taxi

and transportation companies from leasing or using driver provided cars. Mr. Ely made additional averments regarding Uber's insurance coverage and stated that "Uber wants to be a new kind of transportation company at the detriment of drivers' investment of time, cars and equipment." Mr. Ely articulated eight items that he requested the Commission do as relief in response to his complaint, including deny Uber permanent operating authority. Mr. Ely referred to the respondent in this proceeding as "Uber" but the correct corporate entity is Rasier. The company will be referred to as Rasier for purposes of this decision.

On November 15, 2016, Rasier filed an answer and new matter in response to Mr. Ely's complaint. In its answer, Rasier admitted or denied the various averments made by Mr. Ely in his complaint. In particular, Rasier denied that it provides motor carrier services but noted that it provides transportation network company (TNC) services in accordance with all lawful authorizations previously provided by and received from the Commission. Rasier also responded to each of the averments Mr. Ely made in his complaint admitting that Mr. Ely has acted as a driver under Rasier's digital platform but denied that drivers are in any way coerced into the relationship and denying much of the remainder of Mr. Ely's averments.

In its new matter, which was accompanied by a notice to plead, Rasier averred that the relief sought by Mr. Ely is legally barred because the Commission lacks jurisdiction over all or portions of the complaint, Mr. Ely lacks standing, the relief sought is governed by legally binding and enforceable agreements and not this Commission and the relief is barred by the equitable doctrine of laches. Rasier concluded that the complaint is legally insufficient and not specific enough to allow a reasonable, meaningful and comprehensive response. Rasier requested that the complaint be dismissed with prejudice.

Also on November 15, 2016, Rasier filed preliminary objections in response to Mr. Ely's complaint. In its preliminary objections, which were also accompanied by a notice to plead, Rasier argued that Mr. Ely's complaint should be dismissed because the Commission lacks jurisdiction over class actions, the terms of compensation between Rasier and its drivers and Rasier's managerial discretion with respect to the use of vehicles and drivers. Rasier also argued that Mr. Ely lacks standing to challenge the amount of Rasier's assessment or the level of

its charges to customers. Rasier argued that its preliminary objections should be granted and, again, that Mr. Ely's complaint be dismissed with prejudice.

On November 25, 2016, Mr. Ely filed a reply to Rasier's preliminary objections. In his reply, Mr. Ely admitted or denied the various averments made by Rasier. In particular, Mr. Ely addressed Rasier's preliminary objection regarding the Commission's jurisdiction over class actions and his ability to represent other Rasier drivers through his complaint. Mr. Ely also responded to Rasier's arguments regarding driver compensation, vehicle ownership and driver status. Mr. Ely also denied that he lacks standing to challenge the amount of Rasier's assessment or the level it charges to customers. Mr. Ely concluded that he believes the Commission should promulgate regulations to protect Rasier drivers and that the Commission has both the jurisdiction and the means to do so.

On December 7, 2016, Mr. Ely also filed a reply to Rasier's answer and new matter. The Commission's rules do not allow for a reply to an answer. Therefore, only the answer to new matter submitted by Mr. Ely was considered. In his reply to Rasier's new matter, Mr. Ely responded to each of Rasier's arguments why it believes that the relief sought by Mr. Ely is legally barred. In particular, Mr. Ely stated that there is no class action, but that Mr. Ely was only noting in the complaint that what affects him also affects all of Rasier's drivers. Mr. Ely also responded to Rasier's arguments that he has no standing by noting that he has a legitimate interest and causal nexus in the issues raised in the complaint. Mr. Ely also responded to Rasier's arguments that the complaint is governed and controlled by a legally binding and enforceable contract and not the Commission, the complaint is barred by the equitable doctrine of laches and that the complaint is legally insufficient and insufficiently specific. Mr. Ely concluded that Rasier's preliminary objections should be denied.

On July 5, 2017, a motion judge assignment notice was issued informing the parties that I would be responsible to resolve any issues which may arise during the preliminary phase of this proceeding.

Rasier's preliminary objections were granted in part and denied in part by order dated July 20, 2017. Rasier's preliminary objections were granted with regard to Mr. Ely's claim for a class action and for private contractual matters between Rasier and its drivers. Those portions of Mr. Ely's complaint were stricken. Rasier's preliminary objections were denied, however, with regard to Mr. Ely's claims regarding matters over which the Commission does have jurisdiction, such as transportation network company (TNC) drivers, personal vehicle requirements and proper insurance coverage. Mr. Ely could proceed to a hearing regarding those issues over which the Commission has jurisdiction.

As a result, on July 24, 2017, a call-in telephone hearing notice was issued by the Commission setting an initial call-in telephonic hearing for this matter for Friday, September 1, 2017, and assigning me as the presiding officer. A prehearing order dated July 25, 2017 was issued setting forth various procedural rules that would govern the hearing.

By email dated August 24, 2017, Mr. Ely requested that the hearing scheduled for September 1, 2017 be continued to allow him more time for discovery, among other things. Mr. Ely noted that counsel for Rasier did not oppose the requested continuance. Therefore, an order granting the continuance was issued on August 28, 2017 and a hearing cancellation/reschedule notice was issued rescheduling the initial call-in telephonic hearing for Thursday, October 19, 2017.

On October 11, 2017, Rasier filed a motion for entry of a procedural order setting a prehearing conference or converting the initial call-in telephonic hearing to a prehearing conference. As a result, the parties agreed to an off-the-record conference call on October 18, 2017 where various procedural matters were discussed. It was determined that the hearing would proceed on October 19, 2017, as scheduled, where Mr. Ely would present his case in support of his complaint.

The hearing convened on October 19, 2017. Mr. Ely appeared and presented oral testimony and two exhibits that were admitted into the record. John Povilaitis, Esquire appeared on behalf of Rasier. As discussed further below, Rasier did not present any witnesses or exhibits

in response to Mr. Ely's complaint. Rather, it was determined that a further hearing would be scheduled wherein Rasier could present its case. A transcript of 31-pages was created and submitted to the Commission on November 7, 2017. On October 25, 2017, a call-in telephone hearing notice was issued setting a further call-in telephonic hearing for this matter for Wednesday, January 17, 2018.

On December 13, 2017, Rasier filed a motion to dismiss Mr. Ely's complaint. In its motion, which was accompanied by a notice to plead, Rasier averred that Mr. Ely's complaint should be dismissed because he failed to state a *prima facie* case against Rasier. Rasier further argued, among other things, that, "while it is clear that Rasier-PA has obligations to its customers and must adhere to specific technical requirements regarding the use of vehicles and drivers involved in providing TNC service, Chapter 26 [of the Public Utility Code] does not appear to impose any requirements on the company relative to driver economic issues." Rasier concluded its motion by arguing that its motion to dismiss Mr. Ely's complaint should be granted.

Mr. Ely's answer to Rasier's motion was due January 3, 2018. Mr. Ely did not file an answer.

An order dated January 5, 2018 was issued formally cancelling the hearing scheduled for January 17, 2018 pending disposition of Rasier's motion to dismiss.

Rasier's motion to dismiss is ready for disposition. For the reasons discussed below, the motion will be granted and Mr. Ely's complaint will be dismissed.

FINDINGS OF FACT

1. The complainant in this case is Robert Ely.
2. The respondent in this case is Rasier-Pa, LLC.
3. Mr. Ely was a driver for Rasier. Tr. 7-8.

4. Several months after working for Rasier, Mr. Ely was asked to sign a contract with Rasier that presented different terms than what he had previously been operating under. Tr. 9-10, 14.
5. Mr. Ely had previously been a taxi driver for 20 years. Tr. 11.
6. When Mr. Ely signed up with Rasier, he purchased a vehicle, equipment and phones. Tr. 16.
7. Ely Exhibit Number 1 is a certificate of liability insurance dated March 25, 2014 from Marsh USA, Inc. to Rasier LLC. Tr. 17; Ely Exh. No. 1.
8. Ely Exhibit Number 2 is a certificate of liability insurance dated February 28, 2017 from AON Risk Insurance Service West, Inc. to Rasier LLC. Tr. 17; Ely Exh. No. 2.
9. Mr. Ely provided transportation services for Rasier from Pennsylvania to New Jersey. Tr. 18.

DISCUSSION

As Rasier noted in its motion, the Commission's regulations do not specifically provide for a motion to dismiss but Section 5.103 allows a request to be made by motion for relief desired. 52 Pa.Code § 5.103. Furthermore, the Commission's regulations grant presiding officers the authority to regulate the course of the proceeding and for the Commission's rules to be "liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding." *See*, 52 Pa.Code §§ 5.483(a) and 1.2(a). As a result, the motion to dismiss filed by Rasier will be considered a motion for judgment on the pleadings as allowed under Section 5.102 of the Commission's regulations. Doing so will help secure the just, speedy and inexpensive determination of this action and is consistent with the presiding officer's authority to regulate the course of the proceeding.

Section 5.102 of the Commission's Rules provides in relevant part:

§ 5.102 Motions for summary judgment and judgment on the pleadings.

(a) *Generally.* After the pleadings are closed, but within a time so that the hearing is not delayed, a party may move for judgment on the pleadings or summary judgment. A motion must contain a notice which states that an answer or other responsive pleading shall be filed within 20 days of service of the motion.

* * *

(d) *Decisions on Motions.*

(1) *Standard for grant or denial on all counts.* The presiding officer will grant or deny a motion for judgment on the pleadings or a motion for summary judgment, as appropriate. The judgment sought will be rendered if the applicable pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law.

52 Pa.Code § 5.102(a), (d)(1). For a court to grant a motion for summary judgment or judgment on the pleadings, the record must show that no facts are at issue and that the law is so clear that a trial would be a fruitless exercise. All of the opposing party's well-pleaded allegations are viewed as true but only those facts admitted by him may be considered against him. Beardell v. Western Wayne School District, 91 Pa. Commonwealth Ct. 348, 496 A.2d 1373 (1985).

All doubts as to the existence of a genuine issue of material fact must be resolved against the moving party. Thomson Coal Company v. Pike Coal Company, 412 A.2d 466 (Pa. 1979). Judgment will be granted only where the right to relief is clear and free from doubt. A non-moving party may not rest upon mere allegations or denials of the pleadings, but must submit some materials to establish that a genuine issue of material fact exists. Pa.R.C.P. No. 1035.3; Stover v. The United Telephone Co. of Pennsylvania, Docket No. C-00923833 (Order entered July 21, 1992); *see also* Nicastro v. Cuyler, 467 A.2d 1218 (Pa.Cmwlth. 1983); Pennsylvania Gas & Water Co. v. Nenna & Frain, Inc., 467 A.2d 330 (Pa.Super. 1983); Geriot v. Council of Borough of Darby, 457 A.2d 202 (Pa.Cmwlth. 1983).

In this case, Mr. Ely argued in his complaint that he is a consumer and a driver for Rasier. Mr. Ely complained about the compensation provided to Rasier drivers, stating that Rasier is forcing its drivers to operate at below cost and the drivers are unable to earn a living wage. Mr. Ely also averred that the Commission has regulations that prohibit conventional taxi and transportation companies from leasing or using driver provided cars and raised additional averments regarding Rasier's insurance coverage, among other things. During the hearing on his complaint, Mr. Ely raised several additional issues, as discussed further below, including autonomous vehicles, vehicles registered in other states and issues relating to his employment status. Rasier did not present any witnesses during the hearing but, as per a prior agreement of the parties, a further hearing was scheduled for the company to provide its response. In the interim, Rasier filed its motion.

Rasier's motion for judgment on the pleadings will be granted, and Mr. Ely's complaint will be dismissed, because even when viewing all of Mr. Ely's well-pleaded allegations as true, and only using those facts admitted by him against him, it is clear and free from doubt that there are no genuine issues as to a material fact and Rasier is entitled to judgment as a matter of law. Even when afforded a hearing, Mr. Ely has not raised any materials to establish that a genuine issue of material fact exists.

To begin, Chapter 26, signed in to law on November 4, 2016, provides for the regulation of transportation network service by transportation network companies (TNCs). More specifically, Section 2603 prohibits the application of various Pennsylvania laws and regulations to TNCs or their drivers. 66 Pa.C.S. § 2603. Section 2603.1 places various financial obligations upon TNCs and their drivers, such as significant details regarding maintaining primary automobile insurance. 66 Pa.C.S. § 2603.1. Section 2603.2 requires TNCs to provide various disclosures regarding insurance coverage. 66 Pa.C.S. § 2603.2. Section 2604 provides that TNCs may not operate in Pennsylvania without a license issued by the Commission, 66 Pa.C.S. § 2604, and Section 2604.1 provides various requirements to obtain a license. 66 Pa.C.S. § 2604.1. Similarly, Section 2604.2 provides the Commission authority to inspect and audit the TNC's records, 66 Pa.C.S. § 2604.2, and Section 2604.3 provides various service standards for the provision of services by a TNC. 66 Pa.C.S. § 2604.3.

Chapter 26 also provides significant requirements of drivers for TNCs. This includes age requirements, licensing requirements, background checks and actions required in the event of an accident. 66 Pa.C.S. § 2605. Section 2606 contains requirements for the vehicle used, including inspection requirements. 66 Pa.C.S. § 2606. Section 2607 provides requirements regarding rates and forms of compensation for passengers. 66 Pa.C.S. § 2607. This includes requiring TNCs to maintain a tariff at the Commission that sets forth the basis for its fares and policies regarding dynamic pricing. Id. Finally, Chapter 26 also includes requirements prohibiting the disclosure of passenger information, 66 Pa.C.S. § 2608, fines and penalties for operation violations, 66 Pa.C.S. § 2609, and assessments on TNCs for costs of enforcing compliance with Chapter 26, 66 Pa.C.S. § 2610.

During the hearing, Mr. Ely testified regarding a variety of issues. For example, Mr. Ely complained that the contract that he had with Rasier changed a few months after he began working for Rasier. Tr. 7-10, 14. Mr. Ely complained that the new terms were “very draconian and made [working for Rasier] unprofitable.” Tr. 10. Mr. Ely also complained about the fees that drivers pay to Rasier to have the authority to operate in Pennsylvania with their personal cars. Tr. 12. Mr. Ely complained that there should be some controls from the Commission regarding what Rasier charges its drivers. Tr. 12.

Mr. Ely also testified regarding “the fact that drones are picking up people without authority from the PUC, unlawfully, and that affects other drivers that work for Uber because drones are unmanned autonomous vehicles and I think they affect the safety of every other motorist on the road and they shouldn’t be out there, and they’re operating against the PUC rules.” Tr. 13. Mr. Ely complained that autonomous vehicles are “a danger, they’re robots on the road.” Tr. 14. Mr. Ely testified that when he signed up to work for Rasier, he made an investment by purchasing a vehicle, equipment and phones based on “things that were advertised” but that “what was delivered versus what was promised was different.” Tr. 16. Mr. Ely said he believed he was investing in the company similar to a franchise that would “pay off in the future.” Tr. 16. Mr. Ely then referred to the Fair Franchise Act in support of his position, while questioning whether the Commission considers drivers for TNCs to be employees or

franchisees. Tr. 16-17; *see also*, Tr. 20-22 (testimony regarding House Bill 1620 of 2015 entitled Fair Franchises).

Mr. Ely also testified regarding his belief that Rasier creates unfair competition “by having out-of-state cars operate in state doing intrastate calls.” Tr. 18. Mr. Ely complained that cars from out-of-state are operating illegally in Pennsylvania and are impacted by the rates charged in Pennsylvania. Tr. 18-19. Mr. Ely submitted two exhibits of insurance documents in support of his position that out-of-state cars are operating illegally in Pennsylvania. Ely Exh. Nos. 1 and 2; Tr. 17-19.

In its motion, Rasier categorized Mr. Ely’s testimony in to four groups, as follows: 1) claims regarding his relationship with Rasier-PA as a TNC driver; 2) complaints about vehicles with advanced technologies; 3) complaints about drivers using vehicles that are registered in another state; and 4) claims that he was “exploited” by Rasier-PA under a supposedly-enacted law he called the “Franchise Act.”

Rasier then argued that Mr. Ely’s claim regarding his relationship with Rasier was previously dismissed in response to Rasier’s preliminary objection and his claim regarding vehicles with advances technologies is unsubstantiated and Rasier’s use of such vehicles is not otherwise unlawful. Similarly, Rasier argued that Mr. Ely’s complaint about out-of-state vehicles is without merit because the Public Utility Code allows TNC services to be provided by vehicles registered outside of Pennsylvania. 66 Pa.C.S. § 2606(c)(1). Finally, Rasier also rebutted Mr. Ely’s arguments regarding House Bill 1620 of 2015 and the implications of any franchisee relationship by noting that House Bill 1620 of 2015 was never signed into law and that the Commission has no jurisdiction over franchise issues.

Rasier’s motion will be granted and Mr. Ely’s complaint dismissed. Mr. Ely’s complaint fails to raise any genuine issues as to a material fact, even when viewing all of Mr. Ely’s well-pleaded allegations as true, and only using those facts admitted by him against him. It is clear and free from doubt that Rasier is entitled to judgment as a matter of law. Even when

afforded a hearing, Mr. Ely has not raised any materials to establish that a genuine issue of material fact exists.

For example, and as noted in the order granting in part and denying in part Rasier's preliminary objections, the Commission does not have jurisdiction over complaints where the allegations raised arise from duties owed under a private contract between utilities and other parties. The appropriate venue for disputes over driver compensation and related issues is the court of common pleas. Designer Homes, Inc. v. Pennsylvania Power & Light Company, 1993 Pa. PUC LEXIS 30 (May 18, 1993). *See e.g.*, Feingold v. Bell of Pennsylvania, 383 A.2d791, 794-795 (Pa. 1978); Hoch v. Philadelphia Electric Company, 492 A. 2d 27, 31-32 (Pa.Super. 1985); Behrend v. Bell Telephone Company, 363 A.2d 1152, 1158 (Pa.Super. 1976). Therefore, even when accepting as true those facts admitted by Mr. Ely, there are no genuine issues of material fact and Rasier is entitled to judgment as a matter of law on this issue.

In addition, Mr. Ely has also failed to state a claim regarding drones, or autonomous vehicles. As Rasier noted in its motion, Mr. Ely failed to substantiate his claim during the hearing aside from providing his opinion testimony. Mere opinion, without more, is insufficient to meet a complainant's burden. Richard Kirby v. PPL Electric Utilities Corporation, Docket No. C-20066297 (Final Order entered November 16, 2016). Rasier also correctly noted that there is nothing unlawful about Rasier's use of vehicles with advanced technologies in TNC service. *See*, Application of Rasier-Pa, LLC for Transportation Network Service License, Docket No. A-2016-2580821 (Order entered Jan. 26, 2017) (authorizing the use of autonomous vehicles or vehicles with advanced driver assistance technologies subject to compliance with Pennsylvania Department of Transportation vehicle rules and regulations). As a result, even when accepting as true those facts admitted by Mr. Ely, there are no genuine issues of material fact and Rasier is entitled to judgment as a matter of law regarding this issue as well.

Similarly, Mr. Ely's arguments regarding the use of out-of-state cars also present no genuine issue of material fact. Rasier is entitled to judgment as a matter of law regarding this issue as well because Chapter 26 specifically allows what Mr. Ely complains of. As Rasier noted in its motion, Section 2606(c) requires vehicles registered outside of Pennsylvania to be

inspected by a facility approved by the Pennsylvania Department of Transportation. 66 Pa.C.S. § 2606(c)(1). As a result, the General Assembly allows use of cars registered in other states for TNC services. Mr. Ely's argument to the contrary again is without merit.

Finally, regarding Mr. Ely's claims that Rasier's actions violate Pennsylvania's laws regarding franchises, as an initial matter, House Bill 1620 of 2015 was never signed in to law. Furthermore, however, as also noted in the order granting in part and denying in part Rasier's preliminary objections, the Commission cannot exceed its jurisdiction and must act within it. City of Pittsburgh v. Pa. Pub. Util. Comm'n, 43 A.2d 348 (Pa.Super. Ct. 1945). Jurisdiction may not be conferred by the parties where none exists. Roberts v. Martorano, 427 Pa. 581, 235 A.2d 602. Subject matter jurisdiction is a prerequisite to the exercise of power to decide a controversy. *Cf.*, Hughes v. PA State Police, 619 A.2d 390 (1992), *alloc. denied*, 637 A.2d 293 (1993). To the extent that House Bill 1620 of 2015 was enacted, or that Mr. Ely sought to pursue his arguments regarding Pennsylvania franchise law, those issues are appropriately addressed to the venue that has jurisdiction over such issues. This Commission does not have such jurisdiction and, as a result, even when accepting as true those facts admitted by Mr. Ely, there are no genuine issues of material fact and Rasier is entitled to judgment as a matter of law regarding Mr. Ely's argument that Rasier is violating laws pertaining to franchisees.

Although Mr. Ely did testify during the hearing regarding issues pertaining to insurance, tr. 12, 19, and insurance is a financial responsibility required of TNCs in Chapter 26, 66 Pa.C.S. § 2603.1, Mr. Ely's testimony pertained to other drivers and not his own personal experience. As Mr. Ely stated, "well, I didn't have an accident, so we don't have to discuss that then." Tr. 13. Mr. Ely is not an attorney and the Commission does not allow class actions. As a result, to the extent that other drivers believe that Rasier is violating Chapter 26 regarding the insurance requirements, those drivers can file a complaint. Mr. Ely, however, cannot complain on behalf of those drivers.

In conclusion, Rasier's motion to dismiss, treated as a motion for judgment on the pleadings, will be granted and Mr. Ely's complaint will be dismissed. Even when accepting as

true all well-pleaded material allegations raised by Mr. Ely, and using only those facts admitted by him against him, it is clear and free from doubt that Mr. Ely has failed to raise a genuine issue as a material fact and Rasier is entitled to judgment as a matter of law. Even when afforded a hearing to present his case, Mr. Ely has not raised any materials to establish that a genuine issue of material fact exists.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. §§ 701, 2601, *et seq.*

2. The presiding officer will grant or deny a motion for judgment on the pleadings or a motion for summary judgment, as appropriate. The judgment sought will be rendered if the applicable pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law. 52 Pa.Code § 5.102(d)(1).

3. For a court to grant a motion for summary judgment or judgment on the pleadings, the record must show that no facts are at issue and that the law is so clear that a trial would be a fruitless exercise. All of the opposing party's well-pleaded allegations are viewed as true but only those facts admitted by him may be considered against him. Beardell v. Western Wayne School District, 91 Pa. Commonwealth Ct. 348, 496 A.2d 1373 (1985).

4. Section 2603 of the Public Utility Code prohibits the application of various Pennsylvania laws and regulations to TNCs or their drivers. 66 Pa.C.S. § 2603.

5. Section 2603.1 of the Public Utility Code places various financial obligations upon TNCs and their drivers, such as significant details regarding maintaining primary automobile insurance. 66 Pa.C.S. § 2603.1; *see also*, 66 Pa.C.S. § 2603.2.

6. Section 2604 of the Public Utility Code provides that TNCs may not operate in Pennsylvania without a license issued by the Commission. 66 Pa.C.S. § 2604.

7. Section 2604.1 of the Public Utility Code provides various requirements to obtain a license. 66 Pa.C.S. § 2604.1.

8. Section 2604.2 of the Public Utility Code provides the Commission authority to inspect and audit the TNC's records. 66 Pa.C.S. § 2604.2.

9. Section 2604.3 of the Public Utility Code provides various service standards for the provision of services by a TNC. 66 Pa.C.S. § 2604.3.

10. Section 2605 of the Public Utility Code provides significant requirements of drivers for TNCs, including age requirements, licensing requirements, background checks and actions required in the event of an accident. 66 Pa.C.S. § 2605.

11. Section 2606 of the Public Utility Code contains requirements for the vehicle used, including inspection requirements. 66 Pa.C.S. § 2606.

12. Section 2607 of the Public Utility Code provides requirements regarding rate and forms of compensation for passengers, including requiring TNCs to maintain a tariff at the Commission that sets forth the basis for its fares and policies regarding dynamic pricing. 66 Pa.C.S. § 2607.

13. Chapter 26 of the Public Utility Code includes requirements prohibiting the disclosure of passenger information, 66 Pa.C.S. § 2608, fines and penalties for operation violations, 66 Pa.C.S. § 2609, and assessments on TNCs for costs of enforcing compliance with Chapter 26, 66 Pa.C.S. § 2610.

14. Even when viewing all of Mr. Ely's well-pleaded allegations as true, and only using those facts admitted by him against him, it is clear and free from doubt that there are

no genuine issues as to a material fact and Rasier is entitled to judgment as a matter of law and Mr. Ely's complaint should be dismissed.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the motion of Rasier-Pa, LLC to dismiss the formal complaint of Robert Ely at Docket Number C-2016-2571984 and dated December 13, 2017 is granted.
2. That the formal complaint filed by Robert Ely against Rasier-Pa, LLC at Docket Number C-2016-2571984 is hereby dismissed.
3. That this matter be marked closed.

Date: January 10, 2018

_____/s/
Joel H. Cheskis
Deputy Chief Administrative Law Judge