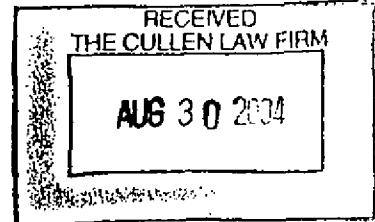


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COPY



UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY

OWNER-OPERATOR INDEPENDENT DRIVERS
ASSOCIATION, INC., *et al.*

Plaintiffs,

v.

Case No. 04-2846 (DMC)

BRIDGE TERMINAL TRANSPORT, INC.

Defendant.

DEFENDANT'S ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIM

For its answer to the complaint in the above-captioned proceeding (the "Complaint"), defendant Bridge Terminal Transport, Inc. ("BTT" or "Defendant"), by and through its attorneys, hereby admits, denies and/or otherwise alleges as follows:

NATURE OF THE ACTION

1. Admits the first two sentences of paragraph 1, except denies that it currently leases equipment from all of Contracting Plaintiffs. The remaining sentences of this paragraph constitute conclusions of law which require no answer.
2. The allegations of paragraph 2 constitute conclusions of law which require no answer.
3. Admits the allegations of paragraph 3.
4. Admits the first sentence of paragraph 4 which describes Plaintiff's allegations and denies the allegations of the fourth sentence of paragraph 4. The

second and third sentences of paragraph 4 are too vague and indefinite to permit an answer.

5. Denies the allegations of paragraph 5.
6. Denies that any of the relief sought in paragraph 6 is warranted.

JURISDICTION AND VENUE

7. Admits the allegations of paragraph 7, except denies that there is a private cause of action for damages.

8. Admits the allegations of paragraph 8, except denies that there is a private cause of action for damages.

9. Admits the allegations of paragraph 9.

PARTIES TO THE ACTION

10. Admits the allegations in the first three sentences of paragraph 10. Denies the allegations of the fourth and fifth sentences for lack of sufficient information and knowledge. Admits the allegations of the final sentence of this paragraph, but denies that OOIDA may lawfully do so on behalf of "all owner-operators."

11. Admits the allegations of the first sentence of paragraph 11. Admits the allegations of the second sentence, except denies for lack of sufficient information and knowledge that Mr. Morris is "a member of OOIDA." Admits the allegations of the final sentence.

12. Admits the allegations of the first sentence of paragraph 12, except denies for lack of sufficient information and knowledge the citizenship of Mr. Paris. Admits the allegations of the second sentence, except denies for lack of sufficient information and knowledge that Mr. Paris is a "member of OOIDA." Admits the

allegations of the final sentence.

13. Admits the allegations of the first sentence of paragraph 13, except denies for lack of sufficient information and knowledge the citizenship of Mr. Hunt. Admits the allegations of the second sentence, except denies for law of sufficient information and knowledge that Mr. Hunt is "a member of OOIDA." Admits the allegations of the final sentence.

14. Admits the allegations of the first sentence of paragraph 14, except denies for lack of sufficient information and knowledge the citizenship of Mr. Hunter. Admits the allegations of the second sentence, except denies for lack of sufficient information and knowledge that Mr. Hunter is "a member of OOIDA." Admits the allegations of the final sentence.

15. Admits the allegations of the first sentence of paragraph 15, except denies for lack of sufficient information and knowledge the citizenship of Mr. Hamilton. Admits the allegations of the second sentence, except denies for lack of sufficient information and knowledge that Mr. Hamilton is "a member of OOIDA." Admits the allegations of the final sentence.

16-18. The allegations of paragraphs 16 through 18 constitute conclusions of law which require no answer.

19. Denies the allegations of paragraph 19 and, answering further, avers that Contracting Plaintiffs are not entitled to relief on behalf of themselves or on behalf of "all others similarly situated."

20. Admits the first sentence of paragraph 20. The second sentence constitutes a conclusion of law which requires no answer.

CLASS ACTION ALLEGATIONS

21. Denies that Plaintiffs may lawfully bring this action as “a national class action, on their own behalf and on behalf of all others similarly situated.”

22. Admits the allegations of paragraph 22.

23. Denies the first sentence of paragraph 23. Denies for lack of sufficient information and knowledge the second and third sentences.

24-25. Denies the allegations of paragraphs 24 and 25.

26. Denies the allegations of the first sentence of paragraph 26 and denies the allegations of the second sentence for lack of sufficient information and knowledge.

27-29. Denies the allegations of paragraphs 27 through 29 and, answering further, denies that class certification is appropriate.

30a. The first sentence of paragraph 30.a quotes a regulation, which speaks for itself, and thus requires no answer. Admits that the lease agreement used by some, but not all, of Defendant’s terminals does not state the amount of compensation on the face of the lease or in an addendum to the lease. Answering further, avers that the deletion of Schedule B from leases used by such those terminals was and is in accordance with the agreement of the parties to the lease.

b. The first sentence of paragraph 30.b paraphrases a regulation, which speaks for itself, and thus requires no answer. Admits the allegations of the second sentence.

c. The first sentence of paragraph 30.c quotes a regulation, which speaks for itself, and thus requires no answer. Admits the allegations of the second sentence but, answering further, avers that Contracting Plaintiffs were provided with full and complete information pertaining to any deductions from their compensation.

d. The first sentence of paragraph 30.d quotes a regulation, which speaks for itself, and thus requires no answer. Admits the allegations of the second sentence but, answering further, avers that Contracting Plaintiffs were provided all required information and documentation with regard to insurance covered by 46 C.F.R. § 376.12(j).

e. The first sentence of paragraph 30.f quotes a regulation, which speaks for itself, and thus requires no answer. Denies the allegations of the second sentence.

31a. Denies that the first sentence of this paragraph accurately sets forth a requirement of 49 C.F.R. § 376.12(h) and thus denies that allegations of said sentence. Admits the allegations of the second sentence but, answering further, avers that Contracting Plaintiffs were provided full and complete information of any charge-back items covered by 49 C.F.R. § 376.12(h).

b-f. Admits that the portions of defendant's lease quoted in these paragraphs are accurate, but denies that defendant has failed to provide Contracting Plaintiffs with any information required by 49 C.F.R. § 376.12(k), denies that it its lease conflicts with 49 C.F.R. §376.12(k), and denies that it has failed to return escrow funds as required.

COUNT I

32. Defendant incorporates its answers to paragraphs 1-31.

33. Admits the first sentence of paragraph 33. Denies the allegations of the second sentence.

34. Denies the allegations of paragraph 34.

COUNT II

35. Defendant incorporates by reference its answers to paragraphs 1-34.

36. Admits the allegations of paragraph 36.

37. Denies that BTT withdrew all prior addenda or schedules. Answering further, Defendant avers that in those terminals where addenda or schedules (later referred to in the Complaint as "Schedule B") were no longer utilized, such discontinued use was by mutual agreement.

38. Denies that BTT withdrew all addenda or schedules, but admits that by mutual agreement in those terminals where the addenda or schedules were discontinued, the lease agreement did not set forth the terms of compensation.

39. Admits the allegations of paragraph 39.

40. Denies that BTT has "failed" to provide a Schedule B to Contracting Plaintiffs.

41. Admits the allegations of paragraph 41, except denies any knowledge of plaintiff's counsel alleging a "serious" violation of federal law. Answering further, Defendant avers that it provided plaintiff's counsel with information it requested regarding various of Defendant's practices and notified plaintiff's counsel that it was in the process of preparing a new lease. Defendant had understood that no litigation would be initiated until the outcome of these discussions was known, but the complaint was filed before further discussion between counsel for the parties could occur.

42. Denies the allegations of paragraph 42.

43. Denies that it has lease agreements with more than one of Contracting Plaintiffs and denies that one lease has deficiencies requiring remediation.

44. Admits the allegations of paragraph 44.

45. Denies the allegations of paragraph 45.

46-48. Denies the allegations of paragraphs 46 through 48.

COUNT III

49. Defendant incorporates by reference its answers to paragraphs 1 through 48.

50. Paragraph 50 states a conclusion of law to which no answer is required.

51-52. Admits the allegations of paragraphs 51 and 52.

53. Denies the allegations of the first sentence of paragraph 53 and admits the allegations of the second sentence.

54. Admits the allegations of the first sentence of paragraph 54. Denies the allegations of the second sentence.

55. Admits the allegations of the first and third sentences of paragraph 55 and denies the allegations of the second sentence of this paragraph.

56-57. Denies the allegations of paragraphs 56 and 57.

58. Admits that BTT's lease agreement does not refer to fuel-related transaction fees, but answering further, avers that Contracting Plaintiffs were provided with full and complete information on all such fees.

59-61. Denies the allegations of paragraphs 59 through 61.

COUNT IV

62. Defendant incorporates its answers to paragraphs 1 through 61.

63-65. Admits the allegations of paragraphs 63 through 65.

66. Admits the allegations of paragraph 66 but, answering further, avers that an accounting is provided to the lessor in all instances.

67. Admits the allegation of paragraph 67.

68. Denies the allegation of paragraph 68.

69-71. Denies the allegations of paragraphs 69 through 71.

COUNT V

72. Defendant incorporates its answers to paragraphs 1 through 71.

73-77. Denies the allegations of paragraphs 73 through 77.

AFFIRMATIVE DEFENSES

First Affirmative Defense

There is no private right of action for damages under 49 U.S.C. §14704.

Second Affirmative Defense

A substantial portion of Plaintiffs' claims are barred by a two-year statute of limitations.

Third Affirmative Defense

Plaintiffs have failed to state a claim for which relief may be granted with respect to at least two of the Contracting Plaintiffs, in that said Contracting Plaintiffs either signed their lease with Defendant prior to January 1, 1996, and/or terminated their relationship with Defendant more than two years prior to the filing of the complaint.

COUNTERCLAIM

1. Contracting Plaintiff Marc Hamilton ("Hamilton") entered into a lease with Defendant similar to that attached to the complaint in March or April of 1997.

2. Pursuant to the terms of the lease between Hamilton and Defendant, Hamilton paid \$500 into an escrow fund to cover certain expenses and liabilities which might arise under the terms of the lease.

3. Hamilton's lease with Defendant was terminated on or about November 9,

2001.

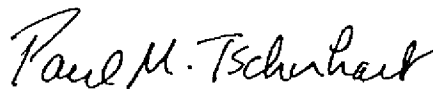
4. At the time Hamilton's lease was terminated, Hamilton owed monies to Defendant as a result of an accident that occurred on or about September 4, 2001 and for, among other things, unpaid fuel taxes, fuel card charges and insurance costs. The amounts owed to Defendant by Hamilton under the terms of the lease exceeded the amount of the escrow fund by \$1,170.66.

5. As a result of his failure to pay all amounts due and owing under the lease, Hamilton is in breach of that lease.

PRAYER FOR RELIEF

WHEREFORE, Defendant Bridge Terminal Transport, Inc. respectfully requests that this Court:

1. Enter a judgment in its favor dismissing the complaint against it.
2. Enter an order awarding it damages in the amount of \$1,170.66 from Hamilton, together with interest thereon.
3. Grant such other relief as this Court may deem to be just and proper.



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Counsel for Bridge Terminal Transport, Inc.


Dated: August 27, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this 27th day of August, 2004, served a copy of the foregoing Answer, Affirmative Defenses and Counterclaim on the following by first-class mail, postage prepaid:

David A. Cohen, Esq.
The Cullen Law Firm
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Washington, D.C. 20007

Peter G. Wales, Esq.
2508 Pacific Avenue
Virginia Beach, VA 23458



Wayne R. Rohde