

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

WILLIAM J. SCHNEIDER; CASEY  
BRUCE; DIANE DOCCHIO and  
MARGARET CUSICK, individually and on  
behalf of all others similarly situated,

Plaintiffs,


v.

COUNTRYWIDE PETROLEUM  
COMPANY; SPC REALTY COMPANY  
f/k/a SUPERIOR PETROLEUM  
COMPANY; OM ANSH ENTERPRISE,  
INC.; and BRIAN HAENZE d/b/a AUTO  
GALLERY & ACCESSORIES and as TAG  
TOWING AND COLLISION,

Defendants.

**NOTICE TO PLEAD**

You are hereby notified to plead to  
the enclosed **NEW MATTER and CROSS-  
CLAIM** within twenty (20) days from service  
thereof or a default judgment may be entered  
against you.

  
\_\_\_\_\_  
Attorney for Defendant

) CIVIL DIVISION

) No: GD 18-012296

) ***Electronically Filed***

) ***ANSWER AND NEW MATTER TO  
AMENDED CLASS ACTION AND  
CROSS-CLAIM***

) Filed on behalf of:  
) Defendant Om Ansh  
) Enterprise, Inc.

) COUNSEL OF RECORD FOR  
) THIS PARTY:

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## IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

WILLIAM J. SCHNEIDER; CASEY BRUCE;	)	CIVIL DIVISON
DIANE DOCCHIO and MARGARET CUSICK,	)	
individually and on behalf of all others similarly	)	
situated,	)	No: GD 18-012296
	)	
Plaintiffs,	)	
	)	<i>Electronically Filed</i>
v.	)	
	)	
COUNTRYWIDE PETROLEUM COMPANY;	)	
SPC REALTY COMPANY f/k/a SUPERIOR	)	
PETROLEUM COMPANY; OM ANSH	)	
ENTERPRISE, INC.; and BRIAN HAENZE	)	
d/b/a AUTO GALLERY & ACCESSORIES and	)	
as TAG TOWING AND COLLISION,	)	
	)	
Defendants.	)	
	)	
	)	
	)	
	)	
	)	

**ANSWER AND NEW MATTER TO**  
**AMENDED CLASS ACTION COMPLAINT AND CROSS-CLAIM**

Defendant Om Ansh Enterprise, Inc. (“Om Ansh”), by and through its undersigned counsel, responds to the Amended Class Action Complaint filed by Plaintiffs William J. Schneider, Casey Bruce; Diane Docchio and Margaret Cusick (hereinafter either “Plaintiffs” or “Trespassers”) and sets forth its New Matter and Cross-Claim below as follows:

**INTRODUCTION**

1. In response to the averments in paragraph 1, Om Ansh denies that it engaged in any towing, denies that thousands of people were involved, denies financial gain and denies any remaining averments or conclusions of law.

2. Paragraphs 2 is not directed at Om Ansh and therefore, requires no response.

3. In response to paragraph 3, Om Ansh states only that it operates the BP station pursuant to a lease with Superior Petroleum Company. In approximately early April 2018, Om Ansh applied for a General Business—Towing license. Om Ansh obtained the license on or about April 12, 2018. Any remaining averments are denied.

4. Paragraph 4 is not directed at Om Ansh and therefore, requires no response.

5. Paragraph 5 is denied as stated. By way of further response, for a limited period of time in 2018, Om Ansh did permit Tag Towing and Collision (“TAG”) to remove unattended vehicles who were not patronizing the BP station and interfering with business operations. Om Ansh withdrew its permission in July 2018. Om Ansh denies any prior knowledge of Trespassers’ characterization of Haenze and denies all remaining allegations.

6. After reasonable investigation, Om Ansh is without knowledge or information sufficient to form a belief as to the averments in paragraph 6.

7. Paragraph 7 contains no factual averments and requires no response. Any averment of liability is denied.

### **THE PARTIES**

8. After reasonable information, Om Ansh is without knowledge or information sufficient to form a belief as to the averments in paragraphs 8, 9, 10 and 11.

9. Paragraph 12 is not directed at Om Ansh and requires no response.

10. The averments in paragraph 13 are admitted, except that the address has changed.

11. Paragraphs 14, 15 and 16 are not directed at Om Ansh and require no response.

### **JURISDICTION AND VENUE**

12. Paragraphs 17, 18 and 19 state legal conclusions that require no response. Om Ansh admits only that it conducts business in Allegheny County.

## **FACTUAL ALLEGATIONS**

13. Paragraph 20 is admitted.

14. Paragraph 21 is denied as stated. Om Ansh states only that it operates the BP station pursuant to a lease with Superior Petroleum Company.

15. In response to the averments in paragraphs 22 and 23, Om Ansh admits only that it posted a sign displaying TAG's name and contact information and that, for a limited time in 2018, it permitted TAG towing to remove unattended vehicles who were not patronizing the BP station and interfering with business operations. Om Ansh withdrew its permission in July 2018. Om Ansh specifically denies that TAG was its agent and denies the existence of a conspiracy. All remaining allegations and legal conclusions are denied.

16. Paragraphs 24, 25 and 26 are not directed at Om Ansh and therefore, require no response. To the extent a response is necessary, Om Ansh admits only that TAG provides towing services in Pittsburgh.

17. Paragraph 27 states conclusions of law to which no response is required.

18. Paragraphs 28 and 29 are not directed at Om Ansh and therefore, require no response.

19. Paragraphs 30, 31, 32, 33, 34, 35, 36 and 37 state conclusions of law to which no response is required. Om Ansh denies charging any Trespasser any amount and denies any violation of the law.

20. Paragraph 38 is denied as stated. By way of further response, Om Ansh admits that for a limited period of time in 2018, it permitted TAG towing to remove unattended vehicles who were not patronizing the BP station and interfering with business operations. Om Ansh withdrew its permission in July 2018.

21. Paragraphs, 39, 40 and 41 state conclusions of law to which no response is required.

22. Paragraph 42 is specifically denied.

23. After reasonable investigation, Om Ansh is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraphs 43, 44 (inclusive of all subparts), 45 and 46.

24. Paragraphs 47, 48, 49 and 50 (inclusive of all subparts), state conclusions of law to which no response is required.

25. Paragraph 51 is specifically denied.

26. After reasonable investigation, Om Ansh is without knowledge or information sufficient to form a belief as to the truth of the averments in paragraphs 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70 and 71. Om Ansh denies all allegations of endorsing an allegedly illegal fee.

### **CLASS ACTION ALLEGATIONS**

27. Paragraphs 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84 and 85 state conclusions of law to which no response is required. Om Ansh denies that class requirements have been satisfied or that a class has been appropriately defined.

### **CAUSES OF ACTION COUNT I**

28. In response to paragraph 86, Om Ansh incorporates all of its preceding responses.

29. Paragraphs 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102 and 103 state conclusions of law to which no response is required. Om Ansh denies any agency relationship with TAG, denies the application of the UTPCPL, denies application of the PaFCEUA, denies making any charges, denies collection of any fees, denies holding any vehicles, denies any deceit, fraud or unfair practices, denies making any representations to Trespassers and denies any and all other averments.

**WHEREFORE**, Om Ansh Enterprise, Inc. denies all liability, demands judgment against Plaintiffs and in its favor, and demands fees and costs incurred as permitted by law and such other and further relief as the Court may deem appropriate.

## **COUNT II**

30. In response to paragraph 104, Om Ansh incorporates all of its preceding responses.

31. Paragraphs 105, 106, 107, 108, 109, 110, 111, 112, 113 state conclusions of law to which no response is required. Om Ansh denies any wrongful act, denies interference with property, denies taking or holding vehicles, denies conversion, denies making any charges, denies collection of fees, denies receipt of any benefit, denies an agency relationship with TAG, denies application of the Fair Share Act and denies any and all other averments.

**WHEREFORE**, Om Ansh Enterprise, Inc. denies all liability, demands judgment against Plaintiffs and in its favor, and demands fees and costs incurred as permitted by law and such other and further relief as the Court may deem appropriate.

## **COUNT III**

32. In response to paragraph 114, Om Ansh incorporates all of its preceding responses.

33. Paragraphs 115 and 116 state conclusions of law to which no response is required. Any averment of liability or breach of duty is denied.

34. Paragraph 117 is specifically denied, inclusive of all subparts.

35. Paragraphs 118 and 119 state conclusions of law to which no response is required. Om Ansh denies all averments of illegality, criminality, negligence and any and all other averments.

**WHEREFORE**, Om Ansh Enterprise, Inc. denies all liability, demands judgment against Plaintiffs and in its favor, and demands fees and costs incurred as permitted by law and such other and further relief as the Court may deem appropriate.

#### **COUNT IV**

36. In response to paragraph 120, Om Ansh incorporates all of its preceding responses.

37. Paragraphs 121, 122, 123, 124 and 125 state conclusions of law to which no response is required. Any averment of liability or breach of duty is denied.

38. Paragraph 126 is specifically denied. By way of further response, Om Ansh admits only that for a limited period of time in 2018, it did permit TAG to remove unattended vehicles who were not patronizing the BP station and interfering with business operations. Om Ansh withdrew permission in July 2018. Om Ansh denies any contract or retention of TAG and denies any illegality.

39. Paragraphs 127 and 128 are specifically denied.

**WHEREFORE**, Om Ansh Enterprise, Inc. denies all liability, demands judgment against Plaintiffs and in its favor, and demands fees and costs incurred as permitted by law and such other and further relief as the Court may deem appropriate.

#### **COUNT V**

40. In response to paragraph 129, Om Ansh incorporates all of its preceding responses.

41. Paragraphs 130, 131, 132 and 134 and the entirety of Count V are not directed at Om Ansh and require no response. Om Ansh denies any allegation of liability against it.

**WHEREFORE**, Om Ansh Enterprise, Inc. denies all liability, demands judgment against Plaintiffs and in its favor, and demands fees and costs incurred as permitted by law and such other and further relief as the Court may deem appropriate.

#### **COUNT VI**

42. In response to paragraph 135, Om Ansh incorporates all of its preceding responses.

43. Paragraphs 136, 137, 138, 139, 140, 141 and 142 and the entirety of Count VI are not directed at Om Ansh and require no response. Om Ansh denies any allegation of liability against it.

**WHEREFORE**, Om Ansh Enterprise, Inc. denies all liability, demands judgment against Plaintiffs and in its favor, and demands fees and costs incurred as permitted by law and such other and further relief as the Court may deem appropriate.

#### **COUNT VII**

44. In response to paragraph 143, Om Ansh incorporates all of its preceding responses.

45. Paragraphs 144, 145, 146, 147, 148 state conclusions of law to which no response is required. Any averment of fraud, liability, duty or breach of duty is denied. Any remaining averments are denied.

46. Paragraph 149, 150 and 151 are specifically denied. Om Ansh states further that it had no relationship whatsoever with Trespassers.

**WHEREFORE**, Om Ansh Enterprise, Inc. denies all liability, demands judgment against Plaintiffs and in its favor, and demands fees and costs incurred as permitted by law and such other and further relief as the Court may deem appropriate.



### **COUNT VIII**

47. In response to paragraph 152, Om Ansh incorporates all of its preceding responses.

48. Paragraphs 153, 154, 155, 156, 157, 158, 159, 160, 161, 162 and 163 are legal conclusions to which no response is required. Any averment of contract, an implied contract, liability, a duty or breach of duty is denied. All remaining averments are denied.

**WHEREFORE**, Om Ansh Enterprise, Inc. denies all liability, demands judgment against Plaintiffs and in its favor, and demands fees and costs incurred as permitted by law and such other and further relief as the Court may deem appropriate.

### **COUNT IX**

49. In response to paragraph 164, Om Ansh incorporates all of its preceding responses.

50. Paragraphs 165, 166, 167, 168 and 169 state legal conclusions to which no response is required. Any averment that Om Ansh was enriched by or received any benefit whatsoever from Trespasser's conduct is denied. Om Ansh denies any implication that Trespassers were patrons. Rather, Trespassers interrupted the business operations of Am Ansh.

**WHEREFORE**, Om Ansh Enterprise, Inc. denies all liability, demands judgment against Plaintiffs and in its favor, and demands fees and costs incurred as permitted by law and such other and further relief as the Court may deem appropriate.

### **NEW MATTER**

51. Trespassers fail to state a claim upon which relief may be based.

52. Trespassers lack standing to bring this lawsuit.

53. There is no private right of action.

54. Trespassers fail to meet the prerequisites to a class action, as required by Pa.R.C.P. 1702.

55. Trespassers were not customers of Om Ansh.
56. Trespassers neither purchased nor leased any goods or services from Om Ansh.
57. Trespassers did not seek or receive permission from Om Ansh to park their vehicles on the property.
58. Trespassers did not rely upon any representation by Om Ansh in connection with either their parking or the resulting towing.
59. To the contrary, Trespassers ignored explicit signage advising them of the possibility of being towed.
60. Trespassers assumed the risk of being towed.
61. Trespassers were trespassers with no right or entitlement to be on the property.
62. Section 3353 of the Vehicle Code allows for the removal of authorized vehicles from the premises.
63. Om Ansh received no benefit whatsoever from Trespassers' illegal parking.
64. Trespassers' claims are barred by the doctrine of unclean hands.
65. Trespassers' claims are barred by the doctrine of *in pari delecto*.
66. Trespassers' illegal parking interfered with Om Ansh's business operations.
67. The lot at issue has limited parking space available.
68. Parking designed for customers was not available.
69. Also, refill of the tanks could not be completed when Trespassers blocked the tanks, causing Om Ansh to run out of gas and lose money.
70. Also, Trespassers blocked the air machines such that other customers could not access the machines, resulting in a loss of money to Om Ansh.
71. Om Ansh demands an offset of losses sustained and additional expenses it incurred as a result of Trespassers' illegal parking.

72. Om Ansh did not conduct the towing, did not charge or receive any fee and did not interact with Trespassers.

73. Trespassers did not report to Om Ansh any issues with TAG prior to filing this lawsuit.

74. Om Ansh had no duty of care to Trespassers.

75. Om Ansh had no relationship with Trespassers so as to create a duty of care.

76. Om Ansh did not receive or share in any fees of TAG.

77. Om Ansh is not responsible for TAG's compliance with the law.

78. Trespassers' damages, if any, were caused by individuals or entities over whom Om Ansh had no control.

79. Trespassers' damages, if any, are capped by the Ordinance.

80. Om Ansh relied upon TAG's superior expertise and knowledge of towing laws.

81. Om Ansh denies prior knowledge of any illegal practice of TAG, as alleged in the Amended Class Action Complaint.

82. Om Ansh had no knowledge of TAG's business practices.

83. Om Ansh had no knowledge of the fees charged by TAG.

84. TAG did not seek Om Ansh's consent prior to towing a vehicle on a per vehicle basis.

85. TAG had no contract with Om Ansh.

86. TAG was not acting as Om Ansh's agent.

87. Om Ansh had no control over TAG's business model, practices or fee structure.

88. TAG's permission to remove cars from the property was revoked by Om Ansh in July 2018.

89. TAG's permission to remove cars from the property was of a limited duration in 2018.

90. Om Ansh pleads a failure to mitigate, if discovery shows such a defense to be applicable.

91. Om Ansh pleads the statute of limitations, if discovery shows such defense to be applicable.

92. All claims for punitive damages are barred by the Pennsylvania and/or United States Constitution.

93. Om Ansh incorporates the defenses of any other Defendant that may be shown to be more generally applicable to all defendants.

**WHEREFORE**, Om Ansh Enterprise, Inc. denies all liability, demands judgment against Plaintiffs and in its favor, and demands fees and costs incurred as permitted by law and such other and further relief as the Court may deem appropriate.

#### **CROSS-CLAIM**

94. Om Ansh Enterprise, Inc. sets forth a cross-claim against Tag Towing and Collision and Brian Haenze d/b/a/ Auto Gallery & Accessories (collectively "TAG") pursuant to Pa.R.C.P. 1706.1.

95. TAG is solely liable on Plaintiffs' cause of action.

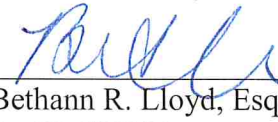
96. Alternatively, TAG is liable over to Om Ansh on Plaintiffs' cause of action or jointly and/or severally liable with Om Ansh on the Plaintiffs' cause of action.

**WHEREFORE**, Om Ansh Enterprise, Inc. denies all liability, demands judgment against Plaintiffs and in its favor, and in the alternative, demands judgment against Tag Towing and Collision and Brian Haenze d/b/a/ Auto Gallery & Accessories and such other and further relief as the Court may deem appropriate.

JURY TRIAL DEMANDED

Respectfully submitted,

WEINHEIMER, HABER & COCO, P.C.

  
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**CORPORATE VERIFICATION**

I, SAGAR UKANI, verify that I am the Owner of Om Ansh Enterprise, Inc., and in that position, I hereby certify that I am authorized to make this Verification on its behalf; said *Answer and New Matter to Amended Class Action and Cross-Claim* was prepared in specific reliance upon representations and documentation provided by employees of Om Ansh Enterprise, Inc., and that the *Answer and New Matter to Amended Class Action and Cross-Claim* is true and correct to the best of my knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa.C.S.A §4904 relating to unsworn falsification to authorities, which provides that if I knowingly make false statements, I may be subject to criminal penalties.

OM ANSH ENTERPRISE, INC.



Owner  
Title

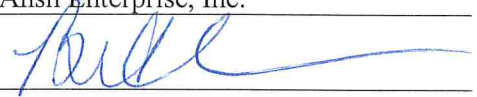
DATE: 1/15/2020

**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Public Access policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that required filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Counsel on behalf of Defendant Om  
Ansh Enterprise, Inc.

Signature:



Name:

Bethann R. Lloyd, Esq.

Attorney ID No. 77385

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the within ***ANSWER & NEW MATTER TO AMENDED CLASS ACTION COMPLAINT AND CROSS-CLAIM*** has been served on all counsel and parties of records, by either U.S. First Class Mail, postage prepaid, or E-Mail (as reflected below) on this 16<sup>th</sup> day of January, 2020, to the following:

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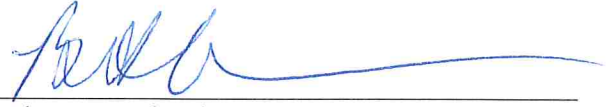
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