

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT
C.A. NO. 09-2799-G

PAUL W. COTE, WILLIAM E. GANNON, II, *
MICHAEL D. LONGTIN, VINCENT A. SILVIA, *
AND LAWRENCE CAHILL, *

Plaintiffs *

V. *

CITY OF BOSTON, MASSACHUSETTS, *
THOMAS M. MENINO, in his official *
capacity as Mayor of the City of Boston, *
BOSTON CITY COUNCIL: *
SALVATORE LAMATTINA, BILL *
LINEHAN, MAUREEN FEENEY, *
CHARLES C. YANCEY, ROB CONSALVO, *
JOHN TOBIN, CHUCK TURNER, *
MICHAEL P. ROSS, MARK CIOMMO, *
MICHAEL FLAHERTY, JOHN R. CONNOLLY, *
STEPHEN J. MURPHY, SAM YOON, in their *
official capacity as Councilors of the City of *
Boston; BOSTON POLICE DEPARTMENT, *
EDWARD DAVIS, in his official capacity as City *
of Boston Police Commissioner, JOHN DOE AND *
JANE DOE, fictitious names of Officials who are *
not known to the Plaintiffs at this time, *

Defendants *

PLAINTIFF, PAUL W. COTE’S INTERROGATORIES
TO DEFENDANT SALVATORE LAMATTINA

NOW COMES the Plaintiff in the above-entitled matter, and, pursuant to Rule 33,
Massachusetts Rules of Civil Procedure, requested that the Defendants Answer under
oath the following Interrogatories. The Defendants' Answers and Objections, if any, to

such Interrogatories are to be filed upon counsel for the Plaintiff within forty-five (45) days from the date of these Interrogatories or other time as may be allowed by law.

INSTRUCTIONS

In each of your answers to these Interrogatories, you are requested to provide answers not only to documents and information as may be in your possession, but also to documents and information as may be reasonably available. In the event you are able to provide answers to only part an Interrogatory, please provide as much of an answer as you are able to provide and state the reason for your inability to provide the remainder. If you object to or otherwise decline to answer any portion of an Interrogatory, please provide all answers called for by that portion of the Interrogatory to which you do not object or to which you do not decline to answer. If you object to an Interrogatory on the grounds that it is too broad (i.e. that it calls both for answers which are relevant to the subject matter of the action and answers which are not), please provide such answers as are concedingly relevant. If you object to an Interrogatory on the ground that to provide an answer would constitute an undue burden, please provide such answer as can be supplied without undertaking an undue burden. For those portions of any answer with which you object or otherwise decline to answer, state the reason for such objection or declination.

These Interrogatories are continuing and to the extent that the denials may be enlarged, diminished or otherwise modified by information received by you subsequent to the filing of your initial answers hereto, you are requested to serve promptly thereafter and file supplemental admissions or denials reflecting such changes or modifications.

These Interrogatories include all after-acquired materials of the type referred to in these Interrogatories.

Where an Interrogatory refers to any tangible object, the Defendants are requested to set forth a time and place where the Plaintiff can inspect, copy, test and sample each object in accordance with Rule 34.

DEFINITIONS

For the purposes of these Interrogatories, the following words and phrases are defined as follows:

COMMUNICATION shall mean all forms of communication, including, for example, all written and oral communications, however transmitted.

DOCUMENT is synonymous with "writing" as that term is defined herein. As used herein, the word "document" or "documents" includes, without limitation, any original, and all copies of any writings, memoranda, tape or other sound recordings, contracts, agreements, invoices, checks, statements, receipts, letters, notes, telephone logs, diaries, calendar entries, telegrams, telexes or other forms of communication or correspondence, books, catalogs, pamphlets, periodicals, lists, brochures, reports, minutes, books or records of account, schedules, tax returns, computer printouts, tapes or memories, photostats, microfilm, or other written information, in whatever form, which is in the custody or possession or under the control of the Defendant.

PERSON shall mean the plural as well as the singular and shall include any natural person, corporation, partnership, joint venture, association, government agency and every other form of entity cognizable at law.

WRITINGS shall mean letters, words or numbers or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical electrical recording, or other form of data compilation.

DESCRIBE when used with respect to an opinion or a reason for or regarding something, means to state every fact, act, or circumstances relied on for the information of that opinion or reason, to identify all persons who have provided information or knowledge for the formation of that opinion or reasons; and to state the information and knowledge each such person has with respect to the opinion or reason.

DESCRIBE when used in any other context, means to identify all documents relating or referring thereto; to identify all persons having responsibility for, or involved in the establishment of, the thing sought to be described, and to explain fully the process by which the thing sought to be described was originated and implemented, and the manner in which it operates.

IDENTITY and IDENTIFY: With respect to writing, to identify or state the identity of means to state:

- (a.) the name of the person who prepared it;
- (b.) the name of the person who signed it over whose name it was issued;
- (c.) the name of each person to whom it was addressed or distributed;
- (d.) the nature and substance of the writing with sufficient particularity to enable it to be identified;
- (e.) the date and, if it bears no date, the date on which it was prepared;
- (f.) each identifying number, title, or designation shown on it;
- (g.) its physical location and the name and address of its custodian(s);

(h.) the circumstances under which the writing was destroyed, lost or in any way ceased to exist if such writing is unavailable or its whereabouts are unknown for any reason; and

(i.) whether it has been, or will be, without the necessity of a formal motion for production, made available to Plaintiff for inspection and copying, and if it will not be made available, the reasons for such refusal. If it will be made available, please attach a copy to the answers to these Requests.

With respect to a communication, to identify or state the identity of means to identify, in the manner described above, each writing by which it was communicated or, of an oral communication, to state:

(a.) the identity of each person who made the communication;

(b.) the identity of each person to whom the communication was made;

(c.) the identity of each person who was in the presence of any person either making or receiving the communication at the time it was made or received;

(d.) the date the communication was made, the place where it was received;

(e.) the substance of what each person identified in connection with the communication said; and

(f.) the identity of each writing, reporting, referring to, or otherwise pertaining to the communication.

With respect to a person, to identify or state the identity of means to state:

(a.) his, her or its name and last known address and if a natural person, his or her last known residence address; and

(b.) if a natural person, the name and address of his or her employer at the time referred to in your answer and at the present time, and the employment position held by such employee with each employer and the date when each such employment began and ceased.

INTERROGATORIES

1.) State your name, business address, residence address, position with the Defendant, your employer, and whether you have made due and diligent inquiry of all agents, servants, attorneys, and your employees, so as to fully permit you to answer each of the Interrogatories hereinafter.

2.) Prior to your vote to support the enactment of City of Boston, Docket No. 0658, An Ordinance regulating the noise levels of motorcycles, please identify by name, address and date, of each verbal and written communication you had with any other person, regarding this topic, and describe the nature and results of each such communication.

3.) Subsequent to your vote to support the enactment of City of Boston, Docket No. 0658, An Ordinance regulating the noise levels of motorcycles, please identify by name, address and date, of each verbal and written communication you had with any other person, regarding this topic, other than with your Attorneys, and describe the nature and results of each such communication.

4.) Please list the dates, times, locations, and the vehicle manufacturer and model, of each motorcycle you have personally inspected, to find an “EPA stamp.”

5.) Please list date and identify each person you had communications with, prior to your vote to support the enactment of City of Boston, Docket No. 0658, An Ordinance regulating the noise levels of motorcycles, regarding the enforcement of such Ordinance, and the nature and results of each such communication, that afforded you a level of assurance the same could be reasonably enforced.

6.) Please list the date and identify each person you had communications with, prior to your vote to support the enactment of City of Boston, Docket No. 0658, An Ordinance regulating the noise levels of motorcycles, how the City of Boston would give “notice” of its enactment to the 180,000 owners of registered motorcycles in the Commonwealth of Massachusetts, and the 250,000 owners of registered motorcycles in the give (5) area other New England states, who might visit or travel through the City of Boston, including in your answer the nature and results of such communication.

7.) Please state the dates and locations when you first read or reviewed, and describe what you believe them to mean as the requirements for motorcycle noise abatement, testing and enforcement procedures:

a.) 40 CRF Section 205, subparts C and D, in their entirety.

b.) Massachusetts General Laws, Chapter 90, Sections 7T, 7S and 7U.

- c.) 540 Massachusetts Code of Regulations, 3.00, 3.01, 3.02, and 3.03.
 - d.) 540 Massachusetts Code of Regulation, Section 4.06.
8.) Have you ever been licensed to operate a motorcycle ? If so, please state the year you were first licensed, the estimated number of miles who have road a motorcycle, and whether you continue to operate a motorcycle.
9.) Describe all communications you had with any person, identifying each person and the dates of such communication, prior to your vote to support the enactment of City of Boston, Docket No. 0658, An Ordinance regulating the noise levels of motorcycles, discussing the expected revenue, benefit and/or rewards to the City of Boston, as a result of enacting City of Boston Docket No. 0658, An Ordinance regulating the noise levels of motorcycles.
10.) How many people within the District your represent in your official capacity as a Councillor, own motorcycles, based upon Excise Tax data that is readily obtainable by you.
11.) Please describe, in your own words and understanding, how 40 CRF Section 205, subparts A, B, C and D, are “consumer standards” and not “manufacturer standards.”
12.) Please describe in your own words and understanding, how a motorcycle in compliance with State Standards and Regulations, may not be in compliance with City of Boston Standards.

13.) Please describe in your own words and understanding, how a motorcycle over one (1) year old or whose mileage exceeds 3,730 miles, may still meet the EPA decibel standards contained within 40 CFR 205, subparts C and D.

14.) Describe in your own words and understanding, how the City of Boston Docket No. 0658, An Ordinance regulating the noise levels of motorcycles, does not create a “new” standard for motorcycle noise and abatement.

15.) Identify who, if anyone other than yourself, you relied upon, prior to voting in support of City of Boston Docket No. 0658, An Ordinance regulating the noise levels of motorcycles, that adequate research had been conducted by them on this issue.

16.) Since voting in support of City of Boston Docket No. 0658, have you obtained any new information and/or documentation, which might demonstrate that City of Boston, Docket No. 0658, An Ordinance regulating the noise levels of motorcycles, should be repealed and/or rescinded.

17.) Do you believe that citizens operating motorcycles in the Commonwealth of Massachusetts, which are properly insured, registered and inspected, in accordance with State Statutes and Regulations, should be able to travel and park within the City of Boston, absence any other disturbance of the peace, without harm of a citation, as called for via enactment of City of Boston Docket No. 0658, An Ordinance regulating the noise levels of motorcycles.

18.) Based upon your experience as a Boston City Councillor, list all other “enforcement type” Ordinances that have been enacted within sixty-six (66) days of their original filing.

19.) Please list by name and address, each person you expect to call as a witness at Trial in this matter, and provide a brief description of their expected testimony.

20. 0 Please identify by name, address, and area of expertise, each person you expect to testify on your behalf, as an expert witness, at Trial in these matters.

Respectfully submitted,
The Plaintiff, Paul W. Cote,
By His Attorney,

Joseph S. Provanzano, Esquire
BBO # 407400
Law Offices Of
Joseph S. Provanzano
16 Bourbon Street, Suite C
Peabody, MA 01960-1338

Tel. : (978) 535 - 8222
Date : Monday, July 20, 2009
File : P09-2066

CERTIFICATE OF SERVICE

I, Joseph S. Provanzano, Esquire, hereby certify that on Monday, July 20, 2009, I served a copy of the foregoing pleadings upon the Defendant's Counsel of Record, by mailing same, via first class, postage prepaid to:

City of Boston Law Department
Attn: Sean Nehill , Esquire
Melissa A. Potvin, Esquire
1 City Hall Plaza, Room 616
Boston, MA 02201

Signed and sealed this Monday, July 20, 2009.

Joseph S. Provanzano, Esquire