

# FEDERAL MARITIME COMMISSION

NNABUGWU CHINEDU ANDREW, AVERS  
LOGISTICS LTD., AND CJ DELUZ NIGERIA  
LTD.

*Complainants,*

v.

MARINE TRANSPORT LOGISTICS, INC.,  
ALLA SOLOVYEVA, AND RAYA BAKHIREV

*Respondents.*

Docket No. 20-12

Served: September 22, 2022

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**BY THE COMMISSION:** Daniel B. MAFFEI, *Chairman*,  
Rebecca F. DYE, Max M. VEKICH, *Commissioners*; Louis E.  
SOLA, Carl W. BENTZEL, *Commissioners*, concurring in the  
result.

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## **Order Affirming Initial Decision**

On January 24, 2022, the Administrative Law Judge (“ALJ”) issued an Initial Decision (“I.D.”) finding that none of the allegedly-unlawful actions by Respondent Marine Transport Logistics (“MTL”) were unjust or unreasonable under 46 U.S.C. § 41102(c), and that Complainants had failed to pierce MTL’s corporate veil

such that either Respondents Alla Solovyeva or Raya Bakhirev, MTL employees, were properly named. Doc. 37. Thus, the ALJ dismissed the action. *Id.*

On February 15, 2022, Complainants Nnabugwu Chinedu Andrew, Avers Logistics Ltd., and CJ Deluz Nigeria Ltd., filed a “Brief in Support of Their Exceptions to the Initial Decision.” Doc. 38. Despite the document’s title, Complainants’ filing does not constitute “exceptions” because it fails to comply with the Commission’s particularity requirements set forth in 46 C.F.R. § 502.227(a). Under § 502.227(a), “any party may file a memorandum excepting to any conclusions, findings, or statements contained in [an initial] decision.” 46 C.F.R. § 502.227(a)(1). Such exceptions “shall indicate with particularity alleged errors, [and] shall indicate transcript page and exhibit number when referring to the record[.]” *Id.* Complainants’ filing does no such thing. *See generally* Doc. 38 (failing to identify any findings of fact or issues of law with which Complainants disagree). Indeed, Complainants’ *only* specific citation to the I.D. concerns an obvious typographical error by the ALJ. *See id.* at 5 (citing Doc. 37 at 15 and spuriously maintaining that because the ALJ wrote “Respondents” where she obviously meant “Complainants,” the ALJ is “confused” as to “who are the complainants and who are the respondents in this matter”). To the extent that Complainants state anything specific at all, they primarily (and improperly) rehash discovery disputes that have been thrice raised before—and ruled on by—the ALJ. *Compare* Doc. 38 at 2-8 *with* Complainants’ Motions to Compel and Reconsider, Docs., 18, 24, 28 and Orders on Complainants’ Motions, Docs. 21, 26, 29.

Indeed, Complainants acknowledge that their filing is deficient. *See* Doc. 38 at 9 (“The purpose of these Exceptions are [sic] to make a record of key issues raised by the [I.D.] and to request that the Commission now review the decision.”). Complainants do not, however, ask that the Commission waive the particularity requirements in § 502.227(a). Instead, without citing any authority,

Complainants maintain that “[i]t is fundamentally unfair for complainants, who are of limited means and resources (as well as the undersigned [Complainants’ counsel], a solo practitioner whose resources and time are also limited) to be expected to now sift through all reversible errors in the Initial Decision[.]” *Id.* Complainants are incorrect. It is well-established that counsel’s busy schedule and being a solo practitioner are not good grounds for failing to comply with rules and regulations.<sup>1</sup> *See, e.g., Chebro v. Great Dane, LLC*, 2020 WL 4499970, at \*3 (D. Conn. Aug. 5, 2020) (citing cases); *see also Tremper v. Air-Shields Inc.*, 2001 WL 1000686, at \*2 (S.D. Ind. Aug. 27, 2001) (noting that the Seventh Circuit has characterized as the “opposite of good cause” for having violated relevant rules and orders, “excuses” such as “[p]oor time management and attorney neglect—even excusable neglect”) (internal citation omitted).

Though not required to engage in the type of review that Complainants themselves are required—but chose not—to do, the Commission has considered the arguments made in the Complainant’s filing. *See* 46 C.F.R. § 502.227(a); Complainants’ Exceptions at 9 (inappropriately requesting that the Commission “take into consideration *all arguments and evidence* previously set forth in Complainants’ [Summary Decision] Brief and Proposed Findings of Fact and Appendix,” which were, of course, before the ALJ). The Commission finds these arguments lacking.

Specifically, Complainants’ discovery-related assertions appear to be directly refuted by Complainants’ own Proposed Findings of Fact and the record that Complainants themselves produced. *Compare* Complainants’ Exceptions, Doc. 38 at 7

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<sup>1</sup> Further, Complainants did not request an extension of time in which to file their exceptions—a request that the Commission often grants.

(maintaining that Complainants “still have not received” invoices, bills of lading, dock receipts, and other paperwork for four vehicles at issue: those with Vehicle Identification Numbers (“VINs”) ending in 6693, 5968, 0283, and 2288) *with* Complainants’ Proposed Findings of Fact, Doc. 31 at PDF 414, 501, 517, 528 (reflecting various invoices for the vehicle with the VIN ending in 6693); *id.* ¶ 140 (referencing the “MTL Invoice” for the vehicle with the VIN ending in 5968); *id.* ¶¶ 136-137 (referencing the “MTL Invoice” and the “MTL Dock Receipt” for the vehicle with the VIN ending in 0283); *id.* ¶¶ 141-44 (referencing the “MTL Invoice” and the “MTL Dock Receipt” for the vehicle with the VIN ending in 2288). Complainants do not explain or even state how the ALJ reached an incorrect conclusion as to any of the I.D.’s relevant, corresponding findings of fact; instead, Complainants maintain that the ALJ reached a decision “prior to the development of a full and complete record[.]” Doc. 38 at 4. Here, too, Complainants fail to explain to themselves, choosing instead to “refer[.]” the Commission to their “various motions” before the ALJ “which, for the purposes of brevity will not be regurgitated” in their Exceptions. *Id.* at 4. Thus, the Commission agrees with the ALJ that “the extensive record was sufficient to rule on the material issues in this proceeding.” I.D. at 18.<sup>2</sup>

Furthermore, the Commission reiterates the Administrative Law Judge’s caution to Counsel for Complainants regarding the naming of individuals instead of, or in addition to corporations, without sufficient basis to do so. As the Judge indicated in the I.D.,

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<sup>2</sup> Although the I.D. includes analysis of all the elements in the Commission’s interpretive rule on § 41102(c), initial decisions “should address only those issues necessary to a resolution of the material issues presented on the record.” 46 C.F.R. § 502.223. Accordingly, once the ALJ determined that Respondents’ conduct was not unreasonable, further analysis was not necessary and the Commission did not review and does not adopt the ALJ’s other findings. *See* I.D. at 12-18.

future instances of this conduct may result in a finding that the claim against the named individual was frivolous and may warrant sanctions. *Id.* at 13. Moreover, Counsel is cautioned about the tone and allegations made in the brief supporting exceptions. The Commission reminds Counsel that it expects practitioners to treat the ALJ (and the Commission) with respect and to otherwise act in accordance with the applicable rules of professional conduct. *See* 46 C.F.R. § 502.26.

For the reasons set forth above, the Commission **AFFIRMS** the Initial Decision. **THEREFORE IT IS ORDERED** that Complainant's Complaint be **DISMISSED WITH PREJUDICE**.

**IT IS FURTHER ORDERED** that any other pending motions or requests be **DISMISSED AS MOOT**.

**IT IS FURTHER ORDERED** that this proceeding be **DISCONTINUED**.

By the Commission.

William Cody  
Secretary