

**BEFORE THE
FEDERAL MARITIME COMMISSION**

OJ COMMERCE, LLC,

Complainant,

DOCKET NO. 21-11

v.

HAMBURG SÜDAMERIKANISCHE
DAMPFSCHIFFFAHRTS-GESELLSCHAFT A/S & CO KG

and

HAMBURG SUD NORTH AMERICA, INC.,

Respondents.

JOINT MOTION TO MODIFY THE SCHEDULING ORDER DATED MARCH 10, 2022

Pursuant to Fed. R. Civ. P. 16(b), Complainant OJ COMMERCE, LLC (“OJ Commerce”), and Respondents HAMBURG SUD NORTH AMERICA, INC. (“Hamburg NA”) and HAMBURG SÜDAMERIKANISCHE DAMPFSCHIFFFAHRTS-GESELLSCHAFT A/S & CO KG (“HSDG”) (collectively referred to as the “Parties”), by their respective undersigned counsel, hereby submit this Joint Motion to Modify the Scheduling Order dated March 10, 2022.

1. On February 18, 2022, this Court granted OJ Commerce leave to file its Verified Amended Complaint.

2. On March 1, 2022, both Respondents filed answers to OJ Commerce’s Verified Amended Complaint.

3. On March 7, 2022, OJ Commerce served its First Set of Interrogatories and First Set of Requests for Production of Documents on HSDG.

4. On March 10, 2022, this Court filed its Scheduling Order for this proceeding.

5. On March 24, 2022, Respondents served their Initial Discovery Requests on OJ Commerce.

6. On March 30, 2022, OJ Commerce served its First Set of Interrogatories, First Set of Requests for Production of Documents, and First Set of Requests for Admission on Hamburg NA.

7. On April 7, 2022, HSDG served its responses to OJ Commerce's Interrogatories and its "initial" responses to OJ Commerce's Requests for Production of Documents.

8. On April 18 and 22, 2022, HSDG produced two sets of documents, amounting to over 13,000 pages, in response to OJ Commerce's First Set of Interrogatories and First Set of Requests for Production of Documents on HSDG.

9. On April 25-26, 2022, the Parties submitted a Joint Motion for Entry of Confidentiality Stipulation and Proposed Protective Order and the Court entered them.

10. On April 29, 2022, OJ Commerce served its responses to Respondents' Initial Discovery Requests and produced responsive documents.

11. In its April 7, 2022 responses, HSDG only objected and did not respond to four out of 12 of OJ Commerce's Interrogatories and 13 out of 26 of OJ Commerce's Requests for Production of Documents, and otherwise limited responses to others.

12. Subsequently, the Parties met and conferred on April 20 and May 2, 9, and 12 regarding HSDG's discovery responses, document production, and depositions. Through that process, the Parties have narrowed down the issues still in dispute, with HSDG agreeing to produce documents in response to several of the formerly objected to discovery requests to the extent those documents exist and are not privileged. HSDG anticipates that its production should be

substantially completed concerning OJ Commerce's first discovery requests by the end of May 2022.

13. Hamburg NA responded to respond to OJ Commerce's First Set of Interrogatories, First Set of Requests for Production of Documents, and First Set of Requests for Admission, and produced responsive documents on Monday, May 16, 2022.

14. The parties met and conferred on May 16, 2022 regarding OJ Commerce's objections to Respondents' discovery requests.

15. OJ Commerce anticipates that it will be filing a Motion to Compel during the week of May 16 concerning the remaining disputes with HSDG's responses and objections. HSDG may file its own motion to compel, depending on the outcome of the parties' discussions regarding OJ Commerce's responses and objections to HSDG's discovery requests.

16. The Parties have been diligent in serving and responding to discovery requests and working through their discovery disputes. Nonetheless, a significant number of documents remain to be produced and reviewed, responses still need to be served, and some discovery issues may need to be resolved by the Court.

17. Moreover, once the document production issues are resolved, the Parties will need time to take critical depositions of each other's witnesses before expert reports are disclosed.

18. Given these outstanding issues, which exist despite the diligence of the Parties to date, and in order to ensure an efficient and just resolution to this action, the Parties assert that a modification to the Scheduling Order is justified.

19. Scheduling orders may be modified "upon a showing of good cause." Fed. R. Civ. P. 16(b); *see also Sosa v. Airprint Systems, Inc.*, 133 F.3d 1417, 1418 (11th Cir. 1998).

20. “[D]iligence is the key to satisfying the good cause requirement.” *De Varona v. Discount Auto Parts, LLC*, 285 F.R.D. 671, 672-73 (S.D. Fla. 2012) (citing *Sosa*, 133 F.3d at 1419).

21. Based on the foregoing, the Parties contend that there exists good cause for modifying the Scheduling Order and respectfully requests that the Court extend the dates approximately 60 days, as shown in the table below:

Event	Current Deadline	Proposed New Deadline
Disclosure of initial expert reports	June 3, 2022	August 5, 2022
Last day to serve discovery requests	June 27, 2022	August 30, 2022
Disclosure of rebuttal expert reports	July 5, 2022	September 2, 2022
Close of all discovery, fact and expert	July 29, 2022	September 30, 2022
Complainant’s brief, findings of fact, and appendix	August 30, 2022	November 4, 2022
Respondents’ brief, findings of fact, appendix, and response	September 27, 2022	December 2, 2022
Complainant’s reply brief	October 12, 2022	December 16, 2022

Dated: May 16, 2022

Respectfully submitted,

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