

FEDERAL MARITIME COMMISSION
Office of Administrative Law Judges

M.E. DEY & CO., INC., *Complainant*

v.

HAPAG-LLOYD AG AND HAPAG-LLOYD (AMERICA) LLC,
Respondents.

DOCKET NO. 22-35

Served: May 8, 2023

ORDER OF: Linda S. Harris CROVELLA, *Administrative Law Judge.*

SECOND ORDER ON MOTION FOR LEAVE TO FILE THIRD-PARTY COMPLAINT

On April 13, 2023, Respondents Hapag-Lloyd filed a Motion for Leave to File Third-Party Complaint (“Third-Party Complaint Motion”) alleging that CSX Transportation, Inc. (“CSX”), a rail carrier, should be named as a third-party respondent because CSX, not Hapag-Lloyd, collected or received “the storage charges herein at issue.” Third-Party Complaint Motion at 1.

On April 27, 2023, an Order on Motion for Leave to File Third-Party Complaint (“Order on Third-Party Complaint Motion”) issued, denying Respondents’ Third-Party Complaint Motion without prejudice because it did not clearly allege a Shipping Act violation as required by Commission Rule 502.62(b)(4), but allowing Respondents to file a revised Third-Party Complaint by May 4, 2023.

On May 4, 2023, Respondents filed Respondents’ Renewed Motion for Leave to File Third-Party Complaint (“Second Third-Party Complaint Motion”). In support of its motion, Respondents incorrectly continue to rely on Federal Rules of Civil Procedure, Rule 14, as amended in 2009, when the Commission’s Rule at 46 C.F.R. § 502.62(b)(4) addresses third-party complaints, as set forth in the Order on Third-Party Complaint Motion. However, Respondents revised the Third-Party Complaint attached to the Second Third-Party Complaint Motion and it now clearly alleges violations of 46 U.S.C. §§ 41102(c) and 41101(a)(14).

No party to the current proceeding filed an opposition or response to Hapag-Lloyd’s Third-Party Complaint Motion.

Accordingly,

IT IS ORDERED that Respondent Hapag-Lloyd’s Second Third-Party Complaint Motion be **GRANTED**. The Office of the Secretary is requested to serve the Third-Party Complaint on CSX.

On April 19, 2023, a Scheduling Order issued, adopting the proposed schedule submitted by Complainant M.E. Dey and Respondents Hapag-Lloyd, and subsequently agreed to for briefing purposes by Intervenor Bureau of Enforcement, Investigations, and Compliance (“BEIC”). Initial discovery requests were to be provided by May 3, 2023, and discovery is scheduled to close on August 24, 2023. The parties should continue to abide by the schedule while awaiting the service and response to the third-party complaint.



Linda S. Harris Crovella
Administrative Law Judge