

BEFORE THE
FEDERAL MARITIME COMMISSION

DOCKET NO. 23-05

RAHAL INTERNATIONAL, INC.,
Complainant,

v.

HAPAG-LLOYD AG and
HAPAG-LLOYD (AMERICA) LLC,
Respondents–Third-Party Complainants,

v.

MAHER TERMINALS LLC,
GCT NEW YORK LP, and
GCT BAYONNE LP,
Third-Party Respondents.

JOINT STATUS REPORT & REQUEST FOR PRE-MOTION CONFERENCE

Complainant Rahal International, Inc. (“Rahal”), Respondents–Third-Party Complainants Hapag-Lloyd AG and Hapag-Lloyd (America), LLC (collectively, “Hapag”), and Third-Party Respondents Maher Terminals LLC (“Maher”), and GCT New York LP and GCT Bayonne LP (collectively “GCT”)¹ hereby submit this Joint Status Report in accordance with and as a follow up to the Joint Status Reports dated November 22nd and October 23, 2023, the parties previously submitted.

As scheduled, and as advised in the November 22nd Joint Status Report, counsel for the parties remotely met on November 29, 2023, and again collectively agreed that an

¹ Effective on or about August 31, 2023, GCT New York LP and GCT Bayonne LP underwent conversions to limited liability companies and ultimately changed their names to Port Liberty New York LLC and Port Liberty Bayonne LLC, respectively.

extension of the operative deadlines set forth in the Scheduling Order (dated August 21, 2023) would be appropriate in consideration of the addition of the third-parties to the proceedings. However the parties disagree as to the propriety of discovery involving GCT while GCT's Motion to Dismiss is pending and before GCT has answered the Third-Party Complaint or provided initial disclosures (if it is ultimately required to do so). GCT contends that it does not have to participate in discovery as a party until its Motion to Dismiss is decided. Counsel for GCT noted that it had no control over whether Hapag would seek discovery from GCT in the interim via third-party discovery, the possibility of which was also noted in footnote 1 in the Joint Status Report of October 23, 2023, but to date GCT has not been served with any subpoena seeking third-party discovery from GCT. Counsel for Rahal and counsel for Hapag's Third-Party Complaint disagree and contend that discovery between all parties should proceed under a new discovery schedule applicable to all parties.

The parties uniformly agree that the timing of third-party discovery is material to the orderly and efficient progression of these proceedings. The prospect of commencing discovery as to Third-Party Respondent Maher with the possibility of having to commence discovery again at a later date with the GCT Third-Party Respondents would result in significant inefficiencies. Additionally, commencing depositions without the participation of the GCT Third-Party Respondents, but with the possible future involvement of GCT (if GCT's Motion to Dismiss is denied), would result in additional inefficiencies, including the probability of multiple and duplicative depositions of witnesses.

In lieu of motion practice as to the propriety of commencing discovery as to GCT prior to GCT answering the Third-Party Complaint and for an adjustment of the Scheduling

Order, the parties respectfully request a conference with the Administrative Law Judge.

Dated: December 6, 2023

Respectfully submitted,

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