

**FEDERAL MARITIME COMMISSION**  
**Office of Administrative Law Judges**

RAHAL INTERNATIONAL INC., *Complainant*

v.

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

**DOCKET NO. 23-05**

Served: August 24, 2023

---

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

---

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

On June 30, 2023, Complainant Rahal International Inc. (“Rahal”) initiated this proceeding by filing a complaint alleging that Hapag-Lloyd AG, Hapag-Lloyd (America) LLC, and Hapag-Lloyd USA, LLC (collectively, “Hapag-Lloyd” or “Respondents”) violated the Shipping Act of 1984 (“Shipping Act”) by failing to provide sufficient facilities for the return of empty containers while continuing to accept more business, failing to provide alternatives for the return of empty containers, charging excessive ocean freight fees, and preventing Complainant Rahal from retrieving loaded containers, resulting in demurrage and detention charges as well as product spoilage. Hapag-Lloyd submitted answers<sup>1</sup> to the complaint denying the allegations and raising affirmative defenses.

On August 18, 2023, Respondents Hapag-Lloyd filed a Motion for Leave to File Third-Party Complaints (“Third-Party Complaints Motion”) alleging that Maher Terminals, LLC (“Maher”), GCT New York LP (“GCT NY”), and GCT Bayonne PL (“GCT Bayonne”), should be named as third-party respondents because they, not Hapag-Lloyd, “controlled the terminal and containers at issue...and the pricing and billing regarding these containers,” and Complainant Rahal “made payment for the costs regarding the Containers to the Third-Party Respondents directly.” Third-Party Complaints Motion at 1-2. For the reasons stated below, the motion is denied without prejudice.

On August 21, 2023, a Scheduling Order issued, adopting the discovery schedule submitted by Rahal and Hapag-Lloyd. Joint Status Report at 1-2. The Scheduling Order provides for initial discovery requests to be provided by September 5, 2023, and for discovery to close on December 29, 2023.

---

<sup>1</sup> Hapag-Lloyd (AG) and Hapag Lloyd (America) LLC filed an answer on August 1, 2023, and Hapag Lloyd USA, LLC filed a separate answer on the same date.

On August 23, 2023, Complainant Rahal filed a partial opposition to the Third-Party Complainants Motion (“Partial Opposition”). In the Partial Opposition, Rahal noted that Respondents’ Third-Party Complaints Motion “seeks leave to file against ‘GCT Global Container Terminals, Inc.’ among other Third-Party Respondents. However, neither Third-Party Complaint asserts claims against GCT Global Container Terminals, Inc.” Partial Opposition at 1-2. Complainant Rahal argues that Hapag-Lloyd should be “limited to the parties in the proposed Third-Party Complaints.” Id. at 2. Complainant also asserts that until discovery is complete, “the motion, if granted, should not preclude Complainant’s right to seek severance and/or separate trials at a subsequent time....” Id.

In support of its motion, Respondents rely on the Commission’s Rule at 46 C.F.R. § 502.62(b)(4) which states:

In addition to filing an answer to a complaint, a respondent may include in the answer a counterclaim against the complainant, a crossclaim against another respondent, or a third-party complaint. A counterclaim, a crossclaim, or a third-party complaint must allege and be limited to violations of the Shipping Act within the jurisdiction of the Commission. The service and filing of a counterclaim, a cross claim, or a third-party complaint and answers or replies thereto are governed by the rules and requirements of this section for the filing of complaints and answers.

Hapag-Lloyd filed an Answer to the Amended Complaint on August 1, 2023, and the two Third-Party Complaints Motion 17-days later. Given the short time that elapsed between the filing of the answer and the filing of the motion, the early stage of the proceeding as illustrated by the recently issued Scheduling Order, no undue delay, disadvantage, or prejudice would result from allowing a third-party complaint to proceed despite the late filing, and Complainant Rahal does not raise any such concerns. In addition, a review of the Third-Party Complaints reveals that they allege violations of the Shipping Act and what appears to be related facts.

Respondent Hapag-Lloyd proposes two separate third-party complaints on what it alleges are the same set of facts yet, includes the three proposed third-party respondents in the caption of both third-party complaints.<sup>2</sup> Absent a justification for such duplication, which has not been provided, it is not appropriate to burden the record with two third-party complaints. Since it is still very early in the proceeding, the pleading can be a combined into one third-party complaint if Respondent Hapag-Lloyd does so expeditiously.

If it chooses to refile a third-party complaint, Hapag-Lloyd should also correct its motion to allege the third-party respondents for which it seeks leave to file a complaint and adjust its caption if necessary. Finally, if Hapag-Lloyd chooses to submit a revised third-party complaint, it should be aware that a request for investigation should be directed to the appropriate Area Representative and is not a proper remedy under the Commission’s Rules of Practice and Procedure at 46 C.F.R. § 502.62(a)(4)(iv). For further information, see <https://www.fmc.gov/resources-services/filing-a-shipping-act-complaint> (scroll to “resources”,

---

<sup>2</sup> The caption in the proposed third-party complaint directed at GCT NY and GCT Bayonne contains a typographical error and no title for the pleading.

“related links”, and click on “Exploring Commission Processes: The differences between contacting CADRS, filing a complaint and reporting violations”).

Complainant Rahal’s second point in the Partial Opposition—that it should be allowed to seek severance of a third-party complaint post-discovery—is not necessary to decide at this juncture as no third-party has yet been served or had an opportunity to respond and discovery has not yet begun.

Accordingly,

**IT IS ORDERED** that Respondents’ Motion seeking leave to file two third-party complaints is **DENIED**, without prejudice.

**IT IS FURTHER ORDERED** that if Respondents wish to file a single revised third-party complaint that incorporates allegations of violations of the Shipping Act as to each of the named third-party respondents, it must do so by September 1, 2023.

The parties are reminded that motions do not automatically stay other deadlines in the proceeding and discovery should proceed pursuant to the scheduling order issued on August 21, 2023.

The parties are also reminded that references to pleadings and motions in the record for this case should be by title of the document and date filed, not where it may fall sequentially in the docket. In addition, filings should be emailed as a courtesy copy to the undersigned presiding officer at [Judges@FMC.gov](mailto:Judges@FMC.gov). Initial Order at pg. 2, ¶ 2. Finally, the Federal Maritime Commission now uses Westlaw, and whenever practicable, case citations should include Westlaw and parallel citations. Id. at ¶ 5.



---

Linda S. Harris Crovella  
Administrative Law Judge