

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: September 6, 2023

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

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

On August 17, 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. Attached to the motion were two third-party complaints: one pleading Maher as a third-party respondent and a separate one pleading GCT NY and GCT Bayonne as third-party respondents. Third-Party Complaints Motion, Exhibits 1 and 2.

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 it should be allowed to seek separate hearings after discovery.

On August 24, 2023, an Order on Motion for Leave to File Third-Party Complaint (“Order on Third-Party Complaint Motion”) issued, denying Respondents’ Third-Party Complaints Motion without prejudice because the two separate complaints were duplicative and included a party in the body of one of the complaints that was not further described and was not included in the caption of the complaint.

On August 25, 2023, Respondents renewed their motion for leave to file a third-party complaint (“Second Third-Party Complaint Motion”) and attached a revised third-party

complaint (“Third-Party Complaint”). Third-Party Complaint, Exhibit 1. In support of the 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.


While Respondents did not file the third-party complaint with its answer, they sought leave to file it prior to the August 21, 2023, issuance of the Scheduling Order and prior to the start of discovery.

Respondents allege in support of their renewed motion that the only requirement in 46 C.F.R. § 502.62(b)(4) is that the complaint allege violations of the Shipping Act. Second Third-Party Complaint Motion at 3. Respondents Hapag-Lloyd allege in the third-party complaint that Third-Party Respondents Maher, GCT NY, and GCT Bayonne violated 46 U.S.C. § 41102(c) of the Shipping Act “by failing to establish, observe, and enforce just and reasonable regulations and practices related to or in connection with receiving, handling, storing, or delivering property by charging Complainant for storage of the Containers.”¹ Third-Party Complaint at 7, ¶ 39.

Accordingly,

IT IS ORDERED that Respondents’ Motion seeking leave to file a third-party complaint is **GRANTED**.

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.



Linda S. Harris Crovella
Administrative Law Judge

¹ By “Complainant,” Respondents refer to Rahal, not to themselves as Third-Party Complainants.