

BEFORE THE
FEDERAL MARITIME COMMISSION

TIR AUTO TRANSPORT LLC,

Complainant,

v.

DOCKET NO. 23-07

V&S BROTHERS, INC. and
V&S CARGO, Inc.,

Respondents.

PARTIES' JOINT REQUEST FOR A STAY OF PROCEEDINGS

Complainant, TIR AUTO TRANSPORT LLC (“TIR”) and Respondents, V&S BROTHERS, INC. and V&S CARGO, INC. (together, “V&S”), by and through their undersigned counsel hereby provide notice that they have stipulated to a stay of proceedings in this matter in light of ongoing settlement discussions and jointly request, pursuant to Section 502.64 and the Commission’s inherent authority, that the Commission stay proceedings in this matter until such time as the parties complete ongoing discussions. In support of this request, the parties hereby state:

This action arises from a dispute between the parties regarding their prior business relationship. Prior to the filing of the Complaint, V&S and TIR had been engaged in discussions directed to achieving an informal settlement of this dispute with the aid of the FMC’s Office of Consumer Affairs & Dispute Resolution Services. The parties continued informal discussions amongst themselves after TIR filed its Complaint on August 8, 2023.

The parties reached an understanding as to the release of certain cargo containers referenced in the Complaint which includes an agreement that this action should be stayed pending further discussions between the parties. The parties are optimistic that this matter can be resolved without the need for a formal determination by the Commission.

Pursuant to 46 C.F.R. 502.12, *Applicability of Federal Rules of Civil Procedure* [FMC Rule 12], in “proceedings under this part, for situations which are not covered by a specific Commission rule, the Federal Rules of Civil Procedure will be followed to the extent that they are consistent with sound administrative practice.” Federal courts generally grant requests for a stay while the parties engage in settlement discussions. *Advanced Bodycare Sols., LLC v. Thione Int’l, Inc.*, 524 F.3d 1235, 1241 (11th Cir. 2008) (“courts have inherent, discretionary authority to issue stays in many circumstances, and granting a stay to permit mediation [] will often be appropriate.”); *ArrivalStar, S.A. v. Blue Sky Network, LLC*, 2012 WL 588806, at *2 (N.D. Cal. Feb. 22, 2012) (“The Court concludes that Blue Sky has shown good cause to justify a stay of discovery pending mediation. The Court finds that staying discovery pending mediation will conserve the resources of the parties and will not impose an inequity on any party.”) *Daigle v. DRC Emergency Services, LLC*, No. 11-CV-2499, 2012 WL 2871252, at *2 (E.D. La. Jul. 12, 2012) (granting a stay where “the real possibility of settlement of these claims through the MDL proceedings exists”); *Exclusive Fishing Tex., LLC v. Markel Am. Ins. Co.*, No. 2:16-CV-125, 2016 U.S. Dist. LEXIS 58350 (S.D. Tx. May 3, 2016) (finding good cause where the parties requested a stay to focus on

their settlement efforts); *Curwen v. Dynan*, No. C11-05598BHS, 2012 WL 1237643, at *2 (W.D. Wash. Apr. 12, 2012) (noting party's desire to avoid prohibitive costs of further discovery pending upcoming mediation is good cause for staying discovery); *Kimberly-Clark Corp. v. Cardinal Health 200, LLC*, No. 1:10-CV-0034-CAP, 2011 U.S. Dist. LEXIS 159566, at *7 (N.D. Ga. Feb. 23, 2011) (staying proceeding for a period of 30 days to allow the parties to pursue settlement negotiations); *PNC Bank, Nat'l Ass'n v. Pharis*, 2:18-CV-626-FTM-99CM, 2018 WL 5807351, at *1 (M.D. Fla. Nov. 6, 2018) (finding good cause to stay proceeding for a period of sixty (60) days appropriate pending mediation and settlement discussions). Section 502.64 of the FMC Rules also provides further support for a stay in such situations.

In light of the fact that this action has only just commenced and given the expense of pursuing and defending claims in this forum, the parties respectfully submit that a settlement is more likely if this action is stayed during the parties' discussions. Moreover, there is good cause to stay this proceeding so that the parties can conduct discussions that may materially affect the pending litigation without the expense of prosecuting and defending the claims. The parties request that: (1) all pending deadlines be stayed, including all deadlines relating to V&S' response to the Complaint; and (2) that the parties are allowed to provide a status update to the Commission at regular intervals regarding the status of negotiations. In an abundance of caution, V&S intends to file its response to TIR's Complaint so as not to miss the deadline to respond. The parties further consent to a stay of all deadlines relating to TIR's reply to V&S' response, including any affirmative defenses and

counterclaim pled by V&S.

Should the negotiations either result in the resolution of all issues or reach an impasse, the parties will notify the Commission immediately. The parties are amenable to the assistance of the Office of Consumer Affairs and Dispute Resolution Services in this process under Section 502.64.

Respectfully submitted, this 5th day of September, 2023.

By: /s/ Andrew J. Steif

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CERTIFICATE OF SERVICE

I certify that, on September 5, 2023, a true and correct copy of the foregoing Notice was filed via electronic mail with the Secretary of the Federal Maritime Commission at secretary@fmc.gov, and a copy was served via electronic mail on all counsel of record.

/s/ Andrew J. Steif

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