

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.

**RESPONDENTS V&S BROTHERS, INC. AND V&S CARGO, INC.'S
NOTICE REGARDING CLAIMANT'S AUTHORITY OR
MOTION FOR LEAVE TO FILE A REPLY**

Respondents, V&S BROTHERS, INC. ("VBI") and V&S CARGO, INC. ("VCI") (together, "V&S"), by and through their undersigned counsel and pursuant to 46 C.F.R. §§ 502.71(c), hereby file this Notice regarding authority cited in Complainant, TIR Auto Transport LLC's ("TIR") *Response to Respondents' Motion to Compel*, filed January 2, 2024. In the alternative, V&S moves to file a reply on the issue addressed herein in light of the extraordinary circumstances.

In its Response, TIR cites *Pettus v. Richards*, 9:06-CV-0030(LEK)(DRH), at *1 (N.D.N.Y. Apr. 19, 2007). TIR cites the following quoted language: "The copy of the responses provided to the Court does not include copies of documents that were provided to the Plaintiff." Response, at 1. TIR cites this quote to contend that V&S's *Motion to Compel* is "procedurally defective." TIR cites to an unpublished opinion without attaching it to the filing. A copy of the cited order is attached hereto as

Exhibit A. TIR misrepresented the import and application of the opinion in that the quoted language comes from a footnote and has nothing to do with the substance of the court's brief ruling in that matter.

To the extent further discussion would be helpful, V&S believes that TIR's characterization of the authority constitutes extraordinary circumstances sufficient to justify a brief reply.

The undersigned conferred with counsel for TIR regarding V&S' request to file this Notice and/or to file a reply on this issue via email on January 2, 2024. Counsel for TIR stated that TIR does not oppose the filing of this document but believed that a reply was not allowed relating to the type of motion at issue.

DATED: January 2, 2024

Respectfully submitted,

/s/Andrew J. Steif

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CERTIFICATE OF SERVICE

I certify that, on January 2, 2024, a true and correct copy of the foregoing 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 the following counsel of record:

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/s/ Andrew J. Steif _____
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