

FEDERAL MARITIME COMMISSION
Office of Administrative Law Judges

D.F. YOUNG, INCORPORATED, *Complainant*

v.

WALLENIUS WILHELMSSEN LOGISTICS, *Respondent*.

DOCKET NO. 23-14

Served: January 23, 2024

ORDER OF: Erin M. WIRTH, *Chief Administrative Law Judge*.

ORDER GRANTING MOTION TO AMEND COMPLAINT

On December 13, 2023, the Commission issued a Notice of Filing of Complaint and Assignment indicating that Complainant D.F. Young, Inc. had filed a Complaint against Wallenius Wilhelmsen Logistics. On January 8, 2024, a Motion to Dismiss was filed, however, the Motion to Dismiss was withdrawn on January 22, 2024. Also on January 22, 2024, Complainant filed a motion for leave to file an Amended Complaint (“Motion”).

The Motion indicates that Respondent consents to the motion for leave to amend. Motion at 1, 2. The Amended Complaint clarifies the identity of two Respondents as: Wallenius Wilhelmsen Logistics AS, n/k/a Wallenius Wilhelmsen Ocean AS and Wallenius Wilhelmsen Logistics Americas, LLC, and provides mailing addresses for both Respondents. Complainant requests that the amendment be granted to “allow the proper parties to answer to the allegations brought against them by Complainant.” Motion at 6.

Commission Rule 66(a) provides in pertinent part that amendments “will be permitted or rejected, either in the discretion of the Commission or presiding officer. No amendment will be allowed that would broaden the issue, without opportunity to reply to such amended pleading and to prepare for the broadened issues.” 46 C.F.R. § 502.66(a).

The Commission’s Rules do not provide criteria for evaluating whether to grant or deny a motion to amend a complaint. However, Commission Rule 12 provides that “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.” 46 C.F.R. § 502.12. Under Federal Rule 15(a)(1)(B), “a party may amend its pleading once as a matter of course” within 21 days after service of a responsive pleading. F.R.C.P. 15(a)(1)(B). After that period, an amended pleading is permitted with the opposing party’s written consent or leave of court, which should be freely given when justice so requires. F.R.C.P. 15(a)(2). “Denial of leave to amend therefore constitutes an abuse of discretion unless the court gives sufficient reason, such as futility of amendment, undue delay, bad faith, dilatory motive, undue prejudice, or repeated failure to cure deficiencies by previous amendments.” *Bancoult v. McNamara*, 214

F.R.D. 5, 8 (D.D.C. 2003) (citations omitted); *see also Foman v. Davis*, 371 U.S. 178, 182 (1962).

The Amended Complaint addresses some of the issues raised in the withdrawn Motion to Dismiss, clarifies allegations, and revises the parties. It was filed early in the proceeding and the parties will not be prejudiced by it. There are no grounds under the Federal Rules warranting denial of the proposed amendment and it is not opposed. Therefore, Complainant will be allowed to amend its complaint.

While the proposed Amended Complaint is attached to the motion, it is unsigned and Complainant requests ten days to file it. Typically, amended complaints are attached to the motion seeking leave to file them and can be served as soon as the motion is granted. Here, the additional time will be provided. Complainant may not make any changes to the substance of the Amended Complaint that has been reviewed and approved for filing. Complainant may provide email addresses for Respondents if Complainant has that information.

By this order, the Office of the Secretary is requested to serve the Amended Complaint when it is received. The Secretary is also requested to amend the caption to include the two Respondents: Wallenius Wilhelmsen Logistics AS, n/k/a Wallenius Wilhelmsen Ocean AS and Wallenius Wilhelmsen Logistics Americas, LLC.

Accordingly, it is hereby **ORDERED** that the motion for leave to amend the complaint be **GRANTED**. Complainant must file the Amended Complaint by February 2, 2024. The Secretary is requested to serve the Amended Complaint when it is filed. Respondents must respond to the Amended Complaint within 25 days of service of the Amended Complaint. In addition, the parties must file a joint status report with proposed schedule as required by the initial order within twenty days of filing of the answer. The parties are instructed to review the Initial Order and to send courtesy copies of all filings to: judges@fmc.gov.


Erin M. Wirth
Chief Administrative Law Judge