

BEFORE THE
FEDERAL MARITIME COMMISSION

DOCKET NO. 24-04

ICL USA, Inc.,

COMPLAINANT,

v.

Dependable Highway Express, Inc. and

Mediterranean Shipping Company, (USA) Inc. on behalf of Mediterranean Shipping Company,
S.A.,

RESPONDENTS.

**JOINT STATUS REPORT AND
PROPOSED SCHEDULING ORDER**

Pursuant to the Administrative Law Judge's "Initial Order" dated January 18, 2024 (FMC Dkt. # 4) and the subsequent "Order on Dependable's Motion to Dismiss and ICL's Notice of Dismissal" dated March 15, 2024 (FMC Dkt. # 17), Complainant ICL USA, Inc. ("ICL" or "Complainant") and Respondents Dependable Highway Express, Inc. ("DHE") and Mediterranean Shipping Company, (USA) Inc. on behalf of Mediterranean Shipping Company ("MSC" or "Respondents") (jointly the "Parties") hereby submit their Joint Status Report and Proposed Scheduling Order.

Consumer Affairs and Dispute Resolution Services

The Parties have contacted the Commission's Office of Consumer Affairs and Dispute Resolution Services (CADRS) and consider mediation or other alternative dispute resolution process offered by the Federal Maritime Commission as a viable route for resolving part if not all the issues of fact and law involved in this proceeding.

Initial Disclosures

The Parties have not exchanged Initial Disclosures. The Parties have agreed to exchange Initial Disclosures by **April 19, 2024**.

Stipulations and Outstanding Issues

The Parties stipulate that:

- MSC invoiced to DHE detention charges in the amount of \$142,385;
- DHE paid detention charges in the amount of \$142,385 to MSC;
- ICL requested waiver to MSC for the \$142,385 in detention charges;
- MSC waived and refunded in cash to DHE and DHE received from MSC the amount of \$117,235;
- There is a balance of \$25,150 in detention charges billed to and paid by DHE that has neither been refunded by MSC nor has been reimbursed by ICL to DHE;
- Of the balance of \$25,150 MSC has agreed to refund to DHE the additional amount \$13,795;

Outstanding Issues:

- On April 11, 2024 DHE submitted paperwork to MSC so that the refund of \$13,795 can be processed.
- MSC will complete this refund as soon as commercially reasonable.
- There is an outstanding balance amount of \$11,355 in detention charges billed by MSC paid by DHE that has not yet been refunded by MSC or reimbursed by ICL.
- MSC contends that upon review of the request of waiver such detention charges were properly assessed.
- DHE is not aware of facts upon which to contest MSC's assessment of the balance of such detention charges as valid, and ICL has yet to take a position.

At this time, the Parties anticipate that any discovery that may be needed involves (i) the assessment of validity of the charges for the outstanding amount of \$11,355 should it be disputed by ICL, and (ii) ICL's damages resulting from the allegations against DHE in the Complaint.

Proposed Scheduling Order

The Parties propose the following Scheduling Order:

- April 26, 2024 - Initial Discovery Requests Due
- May 27, 2024 - Responses to Initial Discovery Due

- June 3, 2024 - Depositions Begin
- July 10, 2024 - Deadline for Submission of Discovery Requests
- July 30, 2024 - Parties Complete Depositions
- August 26, 2024 - Close of Discovery
- September 27, 2024 - Complainant's Brief, Proposed Findings of Fact, and Appendix
- October 28, 2024 - Respondent's Opposition Brief, Responses to Proposed Findings of Fact, Proposed Findings of Fact and Appendix
- November 27, 2024 - Complainant's Reply Brief and Responses to Proposed Findings of Fact

Any written interrogatories or request for production served after the date of the Scheduling and Discovery Order shall be served by a date that allows the served parties the full 30 days as provided by the Federal Rules of Civil Procedure in which to answer or produce by the discovery cut-off date. The Parties do not currently anticipate needing depositions or interrogatories in this case in excess of the amounts contemplated by 46 C.F.R. §§ 502.143 (i.e., no more than 20 depositions) and 502.145 (i.e., no more than 50 written interrogatories), respectively.

The parties **CERTIFY** that they have discussed the proportionality of discovery, the burden and expense associated with discovery, and the discovery of electronically stored information (ESI). The parties do not anticipate a need for ESI protocol.

The parties acknowledge that, prior to filing any motions concerning discovery, they must first meet and confer relating to any discovery disputes and then contact the Administrative Law Judge to arrange a telephone discovery dispute conference if they are unable to resolve their dispute(s). If the dispute cannot be resolved in the first telephonic conference, the parties agree to submit input of the parties on the discovery issues in writing for resolution by the Administrative Law Judge on an expedited basis.

Dated: April 12, 2024

Respectfully and jointly submitted,

[SIGNATURE PAGE FOLLOWS]



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