

**BEFORE THE  
FEDERAL MARITIME COMMISSION**

OL USA, LLC,	)	
	)	
Complainant,	)	
	)	
v.	)	DOCKET NO. 24-11
	)	
MAERSK A/S,	)	
	)	
Respondent.	)	
	)	

**MAERSK’S MOTION FOR EXTENSION OF TIME TO REPLY  
IN SUPPORT OF MOTION TO DISMISS OL USA’S CLAIMS  
FOR LOST REVENUES AND DETENTION CHARGES**

**I. PRELIMINARY STATEMENT.**

Respondent, MAERSK A/S (“MAERSK”), respectfully submits this motion pursuant to 46 CFR Sec. 502.102 for a seven (7)-day extension from August 9, 2024 up to and including August 16, 2024 to file a reply in support of MAERSK’s Motion to Dismiss OL USA’s claims for lost revenues and container detention charges.

**II. PROCEDURAL BACKGROUND.**

MAERSK filed a motion on July 18, 2024 to dismiss OL USA’s claims against MAERSK for lost revenues or profits and container detention charges. The grounds for MAERSK’s dismissal motion are that OL USA has failed to produce sufficient evidence in discovery to support its latter claims.

Pursuant to the Second Order on Motion to Compel Discovery Responses served on July 26, 2024 (“Second Order”), OL USA was required to serve no later than August 1, 2024 the following supplemental disclosures, to the extent not previously produced, responsive to MAERSK’s following April 5, 2024 discovery requests.

- (1) Shipping documents relating to the transportation, storage, handling or movement of the subject Containers (Document Request No. 3);
- (2) Written agreements between OL USA and any Honour Lane Shipping entity relating to the subject Containers, including but not limited to service agreements, container leasing agreements, container purchase agreements and invoices (Doc. Request No. 4);
- (3) Written communications between OL USA and Honour Lane Shipping, MAERSK, any customer, shipper or consignee, or other entity relating to the subject Containers or MAERSK's Tariff (Document Request Nos. 5-8);
- (4) Internal records reflecting the tracking, monitoring, movements or return of the subject Containers (Document Request Nos. 10-12);
- (5) Documents reflecting OL USA's payments to any Honour Lane Shipping entity (Document Request No. 13);
- (6) Documents reflecting OL USA's cancellation of any shipment booking or other loss of business, revenues or profits claimed as a result of the unavailability of the subject five (5) Containers (Document Request Nos. 14 and 15);
- (7) Documents reflecting OL USA's efforts to mitigate its alleged damages, attempts to access MAERSK's Tariff and investigation of any alleged MAERSK violation of the Shipping Act (Document Request Nos. 16-18);
- (8) OL USA must fully respond to MAERSK Interrogatory No. 7, including producing all documents on which it relies and particularizing by date, customer and dollar amount each and every alleged loss of a booking, shipment, business or loss of OL USA claims resulted of the alleged unavailability of the subject five (5) Containers;

(9) OL USA must fully respond to MAERSK Interrogatory No. 8, including: (A) the mathematical formula used by OL USA to calculate any alleged lost profits; (B) relevant information on other carrier discounts or vessel space; (C) the number of inbound trips used in the lost profits calculation; (D) the locations used in the calculation; (E) the definition and calculation of the alleged “extra margin” and (F) the time frame used in the calculation.

OL USA’s papers filed on August 2, 2024 at 6:24 PM in opposition to MAERSK’s Motion to Dismiss state, “On August 1, 2024, OL USA served supplemental written discovery responses and produced supplemental production of documents” (p. 3). However, neither the undersigned nor my partner, Narinder S. Parmar, Esq., who is also on the email service list of MAERSK’s counsel, received any supplemental written discovery responses or additional documents from OL USA on or after August 1, 2024. Likewise, neither Mr. Parmar nor the undersigned received the August 1, 2024 (3:27 PM) email attached as part of Exhibit A to OL USA’s Opposition to MAERSK’s Motion to Compel Depositions.

OL USA’s Opposition (pp. 3-4) further references Bates numbered documents through OL-USA000335 that were allegedly produced on August 1, 2024. OL USA previously produced documents up to OL-USA000270. Thus, OL USA allegedly produced 65 new pages of documents on August 1 that were not previously disclosed to MAERSK and have still not been received by our office.

OL USA’s Opposition (pp. 3-4) also quotes its Supplemental Responses to MAERSK’s Interrogatory Nos. 7 and 8 which do not appear to comply with the terms of the Second Order as set forth in items (8) and (9) above. For example, and without limitation, OL USA’s Opposition references (pp. 3-4) to its Supplemental Interrogatory Response Nos. 7 and 8 fail to provide: (A) a straightforward, unequivocal answer whether it incurred any discrete or

or dollar amount or (B) any formula reflecting how it arrived at its alleged profit loss totaling \$128,680.00.

### **III. LEGAL ARGUMENTS.**

OL USA's discovery tactics unfairly prejudice MAERSK's defense and, left standing, would force MAERSK to conduct lame depositions of Complainant's witnesses without having relevant discovery materials MAERSK requested four (4) months ago on April 5, 2024.

MAERSK cannot reply to OL USA's Opposition to Respondent's Motion to Dismiss Claims without the supplemental disclosures that were required to be served on August 1, 2024 and on which OL USA purportedly relies in support of its Opposition to MAERSK's Motion to Dismiss. Accordingly, MAERSK respectfully requests a seven (7)-day extension of the August 9, 2024 deadline for service of its reply.

Section 502.102(a) requires an application for an extension of time to be served at least seven (7) days before the deadline sought to be extended. In this case, MAERSK would have had to move to extend its August 9, 2024 reply deadline by the close of business on August 2, 2024. MAERSK, however, did not receive OL USA's opposition papers, in which it claims to have served supplemental disclosures on August 1, 2024, until the next day on August 2, 2024 at 6:24 PM. Thus, MAERSK is filing this application for an extension as expeditiously as possible under the circumstances.

### **III. CONCLUSION.**

The Second Order required OL USA to serve its supplemental disclosures at least one (1) day before MAERSK's reply time would have begun to run on August 2, 2024. MAERSK has not received the disclosures that were due on August 1, 2024.

In light of the fact that MAERSK did not receive OL USA's supplemental disclosures due on August 1, 2024, MAERSK respectfully requests a seven (7) day extension of time from August 9, 2024 up to and including August 16, 2024 to serve a reply in support of its Motion to Dismiss OL USA's Claims for Lost Revenues and Detention Charges.

Dated: August 5, 2024

GEORGE W. WRIGHT & ASSOCIATES, LLC

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 5<sup>th</sup> day of August, 2024, the foregoing Motion For Extension of Time to Reply in Support of Motion to Dismiss was served via electronic mail on:

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*/s/ George W. Wright*  
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