

**BEFORE THE
FEDERAL MARITIME COMMISSION**

DOCKET NO. 24-11

**OL USA LLC
COMPLAINANT,**

v.

**MAERSK A/S,
RESPONDENT.**

**OL USA LLC’S REQUEST FOR OFFICIAL NOTICE IN SUPPORT
OF ITS OPPOSITION TO MAERSK A/S’S MOTION TO DISMISS**

Pursuant to 46 CFR 502.226, Complainant OL USA LLC (“OL USA”) respectfully requests that the Federal Maritime Commission (“FMC”) take official notice of Judge Engelmayer’s April 19, 2024 Opinion and Order in *OL USA LLC v. Maersk A/S* currently pending in the Southern District of New York, Case No. 1:23-cv-10283-PAE. (Attached as Exhibit A.)

This Opinion and Order is relevant because it decides the very same issue on which Maersk A/S (“Maersk”) moves to dismiss OL USA’s Verified Complaint in this proceeding—that OL USA does not state a viable damages theory. Furthermore, the Southern District of New York case arises from the same set of facts and circumstances that give rise to the FMC case. There, the Court rejected Maersk’s argument that OL USA’s conversion claim should be dismissed because it fails to set forth a viable theory of damages. The Court also rejected Maersk’s request to dismiss punitive damages. Official notice is appropriate because this is the type of matter that may be judicially noticed by the courts. 46 CFR 502.226(a).

Thus, OL USA respectfully requests that the FMC take official notice of the Opinion and Order for the purpose of considering the pending Motion to Dismiss.

Dated: August 6, 2024

Respectfully submitted,

**BENESCH, FRIEDLANDER, COPLAN
& ARONOFF LLP**

By: /s/ Kelly E. Mulrane

Eric Larson Zalud

Caroline Hamilton

BENESCH, FRIEDLANDER, COPLAN &
ARONOFF LLP

127 Public Square, Suite 4900

Cleveland, OH 44114-2378

Telephone: (216)-363-4500

Email: ezalud@beneschlaw.com

chamilton@beneschlaw.com

Kelly E. Mulrane

BENESCH, FRIEDLANDER, COPLAN &
ARONOFF LLP

41 South High Street, Suite 2600

Columbus, Ohio 43215

Telephone: (614) 223-9318

Email: kmulrane@beneschlaw.com

Counsel to Complainant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *OL USA LLC's Request for Official Notice in Support of its Opposition to Maersk A/S's Motion to Dismiss* was filed on August 6, 2024.

/s/Kelly E. Mulrane _____

One of the attorneys for OL USA LLC