

**Before the
FEDERAL MARITIME COMMISSION**

Docket No. 24-13

ACCESS ONE TRANSPORT, INC.

v.

COSCO SHIPPING LINES CO., LTD.

**RESPONDENTS' REPLY TO COMPLAINANT'S OPPOSITION TO
RESPONDENTS NOTICE OF SUPPLEMENTAL AUTHORITY**

Respondent COSCO hereby replies to the peculiar, and even more oddly named, motion of Complainant seeking an order from the Presiding Officer striking a notice of supplemental authority filed by Respondent. As the motion is entirely pointless, we address it but briefly.

Complainant's so-called Opposition is in fact a motion under the FMC's Rules, which state that any "request for an order or ruling not otherwise specifically provided for in this part *must be by motion.*" 46 C.F.R. § 502.69(a) (emphasis added). Furthermore, Complainant's Opposition is a non-dispositive motion, as to which movant has a duty to confer and "[t]he moving party must state within the body of the motion what attempt was made [to confer] or that the discussion occurred and whether the motion is opposed." 46 C.F.R. § 502.71(a). Complainant failed to comply with this rule both by failing to make any attempt to confer before filing the motion and by failing to reflect that lack of attempt in the motion.

The motion is also unsupported by any citation to authority, apart from the *ipse dixit* of Complainants Counsel, limiting when additional authorities may be brought to the attention of the Presiding Officer. And even though the new authority may not be specifically relevant to a

pending motion, it is clearly quite relevant to the Presiding Officer's explanation in her Order dated June 4, 2024 (Order denying Motion to Dismiss) that it would appear necessary for Complainant to make its case on a shipment-by-shipment (and also date-by-date) basis, and therefore discovery in this proceeding, which is just beginning.

In any event, the motion is as futile as trying to unring a bell. We are sure that the Presiding Officer was already well aware of the supplemental authority, and Complainant's counsel should have been as well. And the authority is not part of any "record" from which it may be stricken. Thus, striking the filing would have absolutely no effect on the parties or the proceeding.

Dated: July 17, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 17th day of July, 2024, a true and correct copy of the foregoing document was served by email on all counsel of record pursuant to 46 CFR Part 502 and the Scheduling Order dated July 3, 2024.

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