

FEDERAL MARITIME COMMISSION
Office of Administrative Law Judges

MAC INDUSTRIES INC. DBA MAC CONTAINER LINE,
Complainant

v.

COSCO SHIPPING LINES CO., LTD. AND
COSCO SHIPPING LINES (NORTH AMERICA) INC.,
Respondents.

DOCKET NO. 25-29

Served: January 5, 2026

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

INITIAL ORDER

On December 22, 2025, the Commission issued a Notice of Filing of Complaint and Assignment (“Notice”) for this proceeding. The response to the complaint is due 25 days after the date of service of the complaint and failure to respond may result in a default decision. 46 C.F.R. § 502.62(b). In addition, Commission regulations require the parties to confer to establish a schedule and to consider mediation. 46 C.F.R. § 502.141(h); 46 C.F.R. § 502.64(a).

The Commission’s Notice requires the initial decision in this case to be issued within one year. Pursuant to Rule 141, discovery must be completed within 150 days of the service of a respondent’s answer and the parties are required to meet and confer: (a) to establish a schedule for the completion of discovery, including initial disclosures and discovery related to experts; (b) to resolve, to the fullest extent possible, disputes relating to discovery matters; and (c) to expedite, limit, or eliminate discovery by use of admissions, stipulations, and other techniques. 46 C.F.R. § 502.141(h).

The parties must submit a joint status report with proposed schedule, as outlined below, within fifteen days of the service of the answer. In the joint status report, the parties must submit a joint proposed schedule that completes discovery within 150 days of service of the answer and allows issuance of the initial decision within one year. 46 C.F.R. § 502.141(g).

Within fifteen days of the service of a respondent’s answer, the parties “must participate in a preliminary conference with the Commission’s Office of Consumer Affairs and Dispute Resolution Services (CADRS) as to whether this matter may be resolved through mediation. The preliminary conference may be conducted either in person or via telephone, video conference, or other forum.” 46 C.F.R. § 502.64(a). This proceeding will not be stayed during the dispute resolution process. 46 C.F.R. § 502.64(c). In the joint status report, the parties must state whether each party has contacted CADRS and whether the parties have agreed to engage in mediation.

The parties are directed *not* to state the parties' positions on whether to agree to mediation or their settlement positions.

Pursuant to the Howard Coble Coast Guard and Maritime Transportation Act of 2014, 46 U.S.C. § 41305(e), and Commission Docket No. 15-06, under certain circumstances, attorney fees may be awarded to the prevailing party in a complaint proceeding. It is therefore in the best interest of all parties to proceed expeditiously.

Please review this order carefully as requirements for filing briefs and exhibits have been added and other sections have been revised. By Commission order, certain requirements in 46 C.F.R. § 502 related to the paper filing of documents, ink signatures, and service by mail of complaints are currently waived. Filings by email to *secretary@fmc.gov* with opposing parties and *judges@fmc.gov* copied are preferred for both public and confidential versions of filings.

The parties must abide by the following additional instructions:

ADDITIONAL INSTRUCTIONS

Filing

1. Information regarding where to find the Commission's rules of practice and procedure (46 C.F.R. § 502), Commission decisions, and other helpful information may be found in the reading room section of the Commission's website, www2.fmc.gov/readingroom. Parties are strongly urged to familiarize themselves with the Commission's rules of practice and procedure. Filings may be rejected for failure to comply with the rules.
2. Every party is obligated to notify the Commission of any change of its service address.
3. Parties are encouraged to file documents with the Office of the Secretary via email at *secretary@fmc.gov*. These emails must include the opposing party and courtesy copies (cc) to the presiding judge at *judges@fmc.gov*. The email should list the filings that are attached, using the same name as on the filing. The attachment's file name should match the name of the filing to the extent possible.
4. By Commission order, certain requirements in 46 C.F.R. § 502 related to the paper filing of documents, ink signatures, and service by mail of complaints are waived. Order (May 12, 2020), Docket No. 20-07, www2.fmc.gov/readingroom/docs/20-07/20-07_order.pdf. Filings by email are preferred.
5. All filings "must be filed with the Secretary, Federal Maritime Commission." 46 C.F.R. § 502.2(a). This filing requirement applies to *both the confidential and public versions* of filings. The Commission has waived paper filing requirements and permitted filings by email. Therefore, filings of confidential versions of documents, as well as the public version, should be sent by email to *secretary@fmc.gov* with a courtesy copy to *judges@fmc.gov*. Confidential filings should be clearly marked on the subject line, in the email, and on the document itself.

6. All filings and all attachments must have page numbers, or they may be rejected.
7. *Attachments.* When documents are attached to a filing, the exhibits should be in one PDF document with sequential page numbers (bates numbers) with a unique prefix such as “CX” for Complainant’s filing and “RX” for Respondent’s filing. It is preferred that CX and RX prefixes are reserved for appendices accompanying briefing on the merits and that alternate prefixes are used for earlier appendices (i.e., for appendices accompanying motions). Excel documents should have the bates number in the title. A bates number should uniquely identify a single document – bates numbers may not be repeated.
8. Any marking systems should be clearly identified on the first page. For example: “Confidential information marked with red box.” See additional requirements below for attachments and confidential filings.
9. *Case citations.* Citations to Commission decisions may be made to official reporters including F.M.C., F.M.C.2d, Pike & Fischer Shipping Regulation Reports (S.R.R.), Westlaw, or Commission slip opinions. If a document from another source is cited, the decision or ruling must be transmitted via e-mail to *judges@fmc.gov*. The Commission uses Westlaw. Citations to opinions on Lexis should include a parallel citation to Westlaw, if possible. Opinions only available on Lexis must be emailed to *judges@fmc.gov*.

Many FMC cases, including F.M.C. from 1919-1987 and F.M.C.2d from 2018 to present are available at www.fmc.gov/complaints-and-assistance/fmc-proceedings-and-reports/.

Every citation to a Commission case should include the case name, docket number, decision-maker (FMC for the Commission; ALJ for an Administrative Law Judge; SCO for a Small Claims Officer) and exact date of service (month/day/year). Subsequent history should be included where available. For example:

- *Bakerly, LLC v. Seafrigo USA, Inc.*, Docket No. 22-17, 2024 WL 95381 (ALJ Jan. 3, 2024), *aff'd* 2024 WL 4678461 (FMC Oct. 30, 2024).

- *Prudential Lines, Inc v. Continental Grain Co.*, Docket No. 79-9, 25 F.M.C. 203 (FMC Aug. 20, 1982).

- *Coppersmith Global Logistics Inc. v. ZIM USA Inc.*, Docket No. 1996(I), 7 F.M.C.2d 116 (SCO Dec. 11, 2023), admin. final, Jan. 11, 2024.

Discovery

10. Rules regarding discovery require initial disclosures within seven days of filing of the answer, limit the number of interrogatories and depositions, and impose time limits to complete discovery. 46 C.F.R. §§ 502.141-502.150. Parties may agree to additional limitations, however, requests to extend established deadlines will be reviewed for good cause even if parties agree to the extension.

11. The parties are reminded of their obligation to ensure preservation of all relevant evidence, including electronically stored information. *Zhi Chen v. District of Columbia*, 839 F. Supp. 2d 7, 12 (D.D.C. 2011); *Zubulake v. UBS Warburg LLC*, 220 F.R.D. 212 (S.D.N.Y. 2003).
12. Discovery materials must not be filed with the Commission until used in the proceeding, for example, as exhibits to a motion or brief. 46 C.F.R. § 502.2(k).
13. Compliance with the date set for completion of discovery requires that the parties serve discovery requests sufficiently in advance of the discovery cutoff so that all responses and objections are due on or before that date.
14. The parties must provide each other with an electronic copy, in a word processing format, of all discovery requests served and all responses to discovery with the exception of documents produced. Answers, responses, and objections to interrogatories and requests for admissions or for production of documents must identify and quote each interrogatory or request in full immediately preceding the answer, response, or objection thereto.
15. A party withholding documents because of an asserted privilege must serve a privilege log that complies with the requirements of Federal Rule of Civil Procedure 26(b)(5)(A).

Motions

16. Rules regarding motions impose time limits, page limits, address replies, and require the parties to confer prior to filing non-dispositive motions. 46 C.F.R. §§ 502.67-502.71.
17. Any request for action by the Commission or presiding officer must be made by motion, not by letter or email request or as part of a joint status report. Each page of the motion should be sequentially numbered.
18. *Motion captions.* The title of each motion must be unique and should identify the moving party (for example, Third Joint Status Report). A filing that refers to another document should clearly identify the other document (for example, a motion for confidential treatment should state in the title or first few sentences the date and complete name of the filing for which confidential treatment is sought).
19. A party moving for summary decision must include in a separate document a statement of material facts as to which there is no genuine dispute. This document must set forth in separately numbered paragraphs a concise statement of each material fact as to which the movant contends there is no genuine dispute. Each paragraph must be limited as nearly as practicable to a single factual proposition. Each factual proposition must be followed by an exact citation to evidence that supports the fact; *i.e.*, a page number in the Appendix.¹

¹ Parties must designate specific facts and provide the court with their precise location in the record. (*Orr v. Bank of Am.*, 285 F.3d 764, 775 (9th Cir. 2002)). “General references [to evidence] without page . . . numbers are not sufficiently specific.” (*S. Cal. Gas Co. v. City of Santa Ana*, 336 F.3d 885, 889 (9th Cir. 2003)).

(See 46 C.F.R. § 502.70(a)). The party filing Proposed Material Facts must provide an electronic copy in a word-processing format to all parties *and to the Office of Administrative Law Judges*.

20. A party opposing a motion for summary decision must file a responding statement either admitting or disputing each of the facts in the movant's statement. This document must set forth verbatim each material fact to which it responds, then admit or deny the fact. All material facts in the movant's statement that are sufficiently supported will be deemed admitted for purposes of the motion only, unless specifically disputed by citation demonstrating the existence of a genuine issue as to the fact. Each proposed finding of fact that the responding party denies must be followed by an exact citation to evidence that the responding party contends will rebut the evidence the proposing party claims supports the fact. An opposing party may also include in the responding statement additional facts that the party contends are material. Each such fact must be stated in separately numbered paragraphs with a citation to the motion record (page in the appendix) establishing the fact or demonstrating that it is controverted. Each paragraph must be limited as nearly as practicable to a single factual proposition. The party filing a Response to Proposed Material Facts must provide an electronic copy of the Response in a word-processing format to all parties *and to the Office of Administrative Law Judges*.
21. Each party must prepare and submit with its motion, opposition, or reply an appendix containing the evidence on which it relies for its claims regarding material facts. The pages of the appendix must be numbered sequentially. If the evidence relied upon has previously been provided either by the party or the opposing party, that evidence should be cited rather than providing a differently numbered copy of the same evidence. The appendix should not include previous filings from the proceeding such as the Complaint.

Briefing

22. Rules regarding briefs impose page limits, content requirements, and note that the presiding officer will determine the time and manner of filing briefs and any enlargement of time. 46 C.F.R. § 502.214.
23. The parties will be required to submit the legal and factual basis for their arguments, and the evidence upon which they rely during briefing. The parties' briefs, proposed findings of fact, responses to proposed findings of fact, and appendices shall be in the following form.
 - A. **[Party's] Brief [Confidential or Public]**. Each party shall file a brief meeting the requirements of Commission Rule 214, 46 C.F.R. § 502.214, with the exception that the proposed findings of fact and responses to the proposed findings of fact shall not count toward the page limit found in Rule 214(e).
 - B. **[Party's] Proposed Findings of Fact [Confidential or Public]**. This document shall set forth proposed findings of fact in numbered paragraphs. Each paragraph shall be limited, as nearly as practicable, to a single factual proposition. Each factual proposition shall be followed by an exact citation to evidence that the party contends

will support the proposed finding of fact; e.g., a page number in the appendix. The party shall provide to each other party and to the Office of Administrative Law Judges an electronic copy of its proposed findings of fact with the hard copy of its proposed findings of fact. The electronic copy shall be in a word-processing format (e.g., Microsoft Word) and provided by email.

- C. **[Party's] Responses to [Party's] Proposed Findings of Fact [Confidential or Public]**. This document shall set forth verbatim each proposed finding of fact in another party's proposed findings of fact, then admit or deny the proposed finding. Each proposed finding of fact that an opposing party denies shall be followed by an exact citation to evidence that the opposing party contends will rebut the evidence the proposing party claims supports the proposed finding of fact. The opposing party shall provide to the party and to the Office of Administrative Law Judges an electronic copy of the response to [Party's] proposed findings of fact with the hard copies of the response to [Party's] proposed findings of fact. The electronic copy shall be in a word-processing format (e.g., Microsoft Word) and provided by email.
- D. **[Party's] Appendix [Confidential or Public]**. The evidence on which a party's proposed findings of fact or response to another party's proposed findings of fact is based shall be included in an appendix which complies with the next section.

Appendix with Exhibits

24. The cover of the appendix shall identify the party or parties that prepared the appendix and whether the filing is a public or confidential version.
25. The appendix should be in one PDF document, if practicable. The pages of the appendix shall be numbered sequentially with a unique prefix, for example CX 1, CX 2 for Complainant's exhibits and RX 1, RX 2, etc. for Respondent's exhibits. If there are multiple Respondents, they must use different prefixes, so that no bates numbers are repeated in the record.
26. Bates numbers should not be repeated, for example, if a first appendix runs from RX 1 to RX 158, a later submitted appendix should be labeled beginning with RX 159, RX 160, etc.
27. The appendix must begin with a table of contents identifying the page at which each individual document begins and each exhibit should be clearly identified, for example, by a cover sheet or bookmark.
28. References to a party's appendix in briefing must match the bates stamp applied to the exhibit page, the one exception being that omitting leading zeroes is preferred. For example, if an appendix page is stamped RX-00059, it is appropriate to refer to this page in briefing as RX 59 but not as R 59.
29. The parties are instructed to cite to a document in an appendix already in the record rather than include the same document in its own appendix. For instance, if Respondent contends that a document included in Complainants' appendix rebuts the evidence

Complainant claims supports a proposed finding of fact, Respondent shall cite to Complainants' appendix rather than include a second copy of the same document in its own appendix.

30. Each party shall ensure that all documents in its appendix are legible and in English or include a verified translation as required by Rule 7. 502 C.F.R. § 502.7.

Confidential Material

31. *Stipulation* – The parties may agree and stipulate between themselves regarding treatment of confidential documents and information obtained during discovery that is not filed with the Commission. The parties may, but are not required to, file a courtesy copy of the agreement with the Commission.
32. *Use in the proceeding* – If confidential information is filed in a memorandum or as an exhibit to a dispositive motion or as part of briefing on the merits, it must be accompanied by a motion justifying confidential treatment. This motion must identify each item for which protection is sought and show good cause by demonstrating that the information is a trade secret or other confidential research, development, or commercial information. 46 C.F.R. § 502.141(j)(1). The burden is on the party seeking to protect the information to show good cause for its protection.
33. *Depositions* – Parties may not mark entire depositions as confidential. Parties should ask questions that may require confidential responses together, typically at the end of the deposition. Alternatively, parties may mark as confidential selected statements in a deposition prior to filing the deposition as an exhibit. Requests for confidential treatment of entire depositions should not be made and may be summarily rejected.
34. *Filing* – Parties must file two versions of any filing that includes confidential material, one marked as the “confidential version” and the other marked as the “public version.” 46 C.F.R. § 502.5. These public or confidential labels should be on the (1) cover page, (2) document name, and (3) preferably also in the page header or footer throughout the filing. Improperly marked filings may be rejected. Both versions should be emailed to *secretary@fmc.gov* with a courtesy copy to *judges@fmc.gov*. The inclusion of any confidential materials should be clearly indicated on the subject line and in the text of the email as well as on the document.
35. *Marking confidential material* – In the confidential version, the confidential information must be conspicuously and clearly marked on each page, for example by unique outlining, highlighting, boxes, or braces. The public version must clearly indicate any omissions, for example with blackout or braces. *Pagination and depiction of text on each page must be identical to that of the confidential version.* For example, the confidential filing may read: “On January 1, 2010, Complainant entered into a {25} year lease with respondent for a monthly rent of {\$1000}.” The public version would read: “On January 1, 2010, Complainant entered into a {█} year lease with Respondent for a monthly rent of {█}.” Only confidential numbers or words should be marked as confidential in the confidential version and thus redacted in the public version, not entire sentences.

Improperly marked filings may be rejected. In selecting how confidential material will be marked, parties should consider pre-existing marks in the documents. For example, if there is yellow highlighting already in some appendix documents, an alternate color of highlighting should be chosen to indicate confidential material, so that such requests are unambiguous.

36. *Exhibits* – Confidential information in exhibits should be marked as described above. If marking within the text is not feasible, the motion seeking confidential treatment must indicate why the material could not be so marked. If justified, individual pages may be replaced in the public version with a page indicating that confidential material was excluded. However, the public and confidential appendices must be the same length (i.e. a single page in the public version should not indicate the omission of multiple pages from the confidential appendix).
37. *Personal information* – Personally identifiable information such as social security numbers, birth dates, and financial account numbers must be redacted pursuant to Commission Rule 13.46 C.F.R. § 502.13.
38. *Confidential Request Table* – It is required that a confidential request table be submitted, organizing requests for confidential treatment of exhibits by bates number. The table must include: (1) the bates range for confidential document requests, listed in the order of the bates numbering used for the parties’ appendices; (2) the document’s description; (3) whether confidential treatment is being requested for the entirety of the bates range or only for certain material marked in both the confidential and public versions; and (4) the legal basis for the confidentiality request. If a bates range in an appendix does not include any confidential information, it should not be listed in the confidential materials list. If a supplemental appendix is later submitted, a new comprehensive confidential bates list must be submitted, which includes the previous list and any additional bates ranges for which confidential material has been requested (resulting in one confidential list for Complainants and one confidential list for Respondents, encompassing all confidentiality requests, always ordered by bates numbers used for the parties’ appendices).

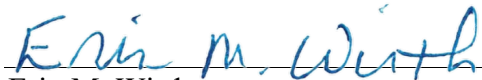
Example: [Party Name] Appendix Public - Bates Table of Confidentiality Requests

<i>Bates Range</i>	<i>Description</i>	<i>Classification Requested for</i>	<i>Basis for Confidentiality Request</i>
CX 12-13	Depo. Transcript of [Name]	Material indicated	Current pricing data
CX 28-29	Agreement dated [dd/mm/yy]	Entire page range	Commercially sensitive rates and terms

Hearing

39. The answer must indicate whether an oral hearing is requested and the desired place for such a hearing. The presiding officer will determine whether an oral hearing is necessary. 46 C.F.R. § 502.62(a)(5), (b)(3).

40. The parties should review Commission Rules 75 and 209-210, 46 C.F.R. §§ 502.75, 502.209-210, with regard to settlement and prehearing procedures including the submission of prehearing statements.
41. The parties are expected to attempt to narrow the issues and to shorten the proceeding by stipulations. The parties may, by stipulation, agree upon any facts involved in the proceeding. 46 C.F.R. § 502.207. Stipulations should be signed by the parties and may be filed at any point in the proceedings.



Erin M. Wirth

Chief Administrative Law Judge