

**FEDERAL MARITIME COMMISSION**

**WASHINGTON, D.C.**

**DOCKET NO. 09-01**

**MITSUI O.S.K. LINES LTD.**

**v.**

**GLOBAL LINK LOGISTICS, INC., OLYMPUS PARTNERS, L.P., OLYMPUS  
GROWTH FUND III, L.P., OLYMPUS EXECUTIVE FUND, L.P., LOUIS J.  
MISCHIANI, DAVID CARDENAS, KEITH HEFFERNAN, CJR WORLD  
ENTERPRISES, INC. AND CHAD J. ROSENBERG**

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**NOTICE OF ASSIGNMENT**

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The undersigned judge will conduct such hearings and conferences as may be necessary to resolve the issues in this proceeding and to issue an Initial Decision or dispositive ruling.

All pleadings and documents pertaining to this proceeding shall be filed with the Secretary of the Commission as required by Rule 118 of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.118, with a courtesy copy to the presiding judge. Rule 118(b)(3) requires that parties file copies of discovery with the Commission. 46 C.F.R. § 502.118(b)(3). In accordance with Rule 10 (46 C.F.R. § 502.10), that requirement is waived in this case. Therefore, the following discovery requests and responses must not be filed with the Commission until they are used in the proceeding or the court orders filing: (i) depositions, (ii) interrogatories, (iii) requests for production of documents or to permit entry upon land, and (iv) requests for admission. *Compare* Fed. R. Civ. P. 5(d)(1).

In all papers filed in this proceeding, the parties may cite Commission decisions or rulings by reference to the official F.M.C. reporters, Pike & Fischer Shipping Regulation Reports ("S.R.R."), Westlaw, or Commission slip opinions by docket number, title, and date of service. If Westlaw citations are used, the parties shall give the corresponding S.R.R. citation if available, or, if not available, shall give the F.M.C. docket number, the title of the case, and the precise date of the ruling. If a court or other non-F.M.C. case is cited by Westlaw, the decision or ruling shall be transmitted via e-mail to [judges@fmc.gov](mailto:judges@fmc.gov).

In its Notice of Filing of Complaint and Assignment, the Commission stated: "Hearing in this matter . . . shall commence within the time limitations prescribed in 46 C.F.R. 502.61, and *only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution.*" *Mitsui O.S.K. Lines Ltd. v. Global Link Logistics, Inc., Olympus Partners, L.P., Olympus Growth Fund III, L.P., Olympus Executive Fund, L.P., Louis J. Mischianti, David*

*Cardenas, Keith Heffernan, CJR World Enterprises, Inc. and Chad J. Rosenberg*, FMC No. 09-01, Notice of Filing of Complaint and Assignment at 3 (May 14, 2008) (emphasis added). The Commission has promulgated Rules of Practice and Procedure regarding the use of alternative dispute resolution, settlement, shortened procedure, and any other device that will aid in cutting costs of litigation. *See, e.g.*, 46 C.F.R. §§ 502.1; 502.61(d); 502.91(a); 502.91(d); 502.94(c); 502.147(a); 502.181 - 502.187 (shortened procedure); 502.401 - 502.411 (alternative dispute resolution). *See also Verucci Motorcycles, LLC v. Senator International Ocean, LLC*, FMC No. 06-05, slip op. at 5-6 (May 7, 2008) (Order Reopening the Proceeding) (remanding for further proceedings and directing the administrative law judge to “instruct the parties upon the availability of alternative dispute resolution (ADR), and . . . determine whether the matter should be referred to the Office of Consumer Affairs and Dispute Resolution Services to assist the parties.”). Accordingly, the parties are ordered to review the above-cited sections of the Commission’s Rules. The parties are also ordered to contact Ronald D. Murphy, the Commission’s Alternative Dispute Resolution Specialist, at 202-523-5807, on or before June 19, 2009, to discuss with Mr. Murphy or his designee the feasibility of resolving this matter through alternative dispute resolution. *See* 46 C.F.R. § 502.91(d) (“the presiding judge . . . may direct the parties or their representatives to consult with the Federal Maritime Commission Alternative Dispute Resolution Specialist about the feasibility of alternative dispute resolution.”). Each party is ordered to advise Mr. Murphy in confidence whether it agrees to engage in alternative dispute resolution. Mr. Murphy is requested to advise the Office of Administrative Law Judges in writing: (1) whether each party has complied with the directive to consult with the Commission’s Alternative Dispute Resolution Specialist; and (2) whether the parties agree to engage in alternative dispute resolution.

The Commission’s rules of practice and procedure are available online at <http://www.fmc.gov/home/Regularities.asp>. Commission decisions going back to 1996 are also available online at <http://www.fmc.gov/reading/DocketProceedings.asp>.

Section 205(c)(3) of the E-Government Act of 2002, Public Law 107-347, required the Supreme Court to prescribe rules “to protect privacy and security concerns relating to electronic filing of documents and the public availability . . . of documents filed electronically.” The rule developed by the Court goes further than the E-Government Act in regulating paper filings even when they are not converted to electronic form. *See* Fed. R. Civ. P. 5.2 (“Privacy Protection For Filings Made with the Court”). *See also* Fed. R. Civ. P. 5.2, advisory committee notes, 2007 adoption. There is no comparable Commission rule. Commission Rules do provide that “[i]n proceedings under this part, for situations which are not covered by a specific Commission rule, the Federal Rules of Civil Procedure will be followed to the extent that they are consistent with sound administrative practice.” 46 C.F.R. § 502.12. It is consistent with sound administrative practice to follow the Federal Rules of Civil Procedure governing privacy protection for filings made with the Commission. Therefore, the parties are ordered to comply with Fed. R. Civ. P. 5.2 when filing documents with the Commission.

To improve efficiency and reduce cost, the parties may elect to receive service of the rulings, orders and decisions in this proceeding through email in lieu of service by U.S. mail. A party opting for electronic service shall advise me in writing and provide me with the email address where the party wishes to receive service.

  
Clay G. Guthridge  
Acting Chief Administrative Law Judge