

S E R V E D  
June 20, 2013  
FEDERAL MARITIME COMMISSION

**FEDERAL MARITIME COMMISSION**

**DOCKET NO. 11-12**

**HANJIN SHIPPING CO., LTD.; KAWASAKI KISEN KAISHA, LTD.;  
NIPPON YUSEN KAISHA; UNITED ARAB SHIPPING COMPANY (S.A.G.);  
and YANG MING MARINE TRANSPORT CORPORATION**

**v.**

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**

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**FOURTH REVISED SCHEDULING ORDER**

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On February 19, 2013, Respondent filed an unopposed motion to amend the third revised schedule. Respondent indicates that the Complainants do not oppose the motion.

Complainants filed this case in August of 2011, almost two years ago. Extensions of the schedule have been necessary due to changes in counsel and the impact of Hurricane Sandy. Numerous discovery motions and a motion for summary judgement have further delayed resolution of this matter. At this point, the parties are expected to proceed expeditiously. The time frames requested by the parties have been adopted with only minor changes. Additional information regarding the proper format for filing briefs is also included.

Good cause having been stated, it is hereby **ORDERED** that the motion to extend the third amended schedule be **GRANTED**.

The parties shall file monthly joint status reports on the 15th of each month and abide by the following schedule:

Date	Activity
July 8, 2013	Last day to produce any documents. Documents not produced by this date may not be utilized at the hearing.
August 15, 2013	Fact deposition period ends; end of fact discovery. Requests for an oral hearing due.
August 22, 2013	Complainants designate affirmative expert(s) and produce expert reports (if any).
September 12, 2013	Respondent designates affirmative and rebuttal expert(s) and produces expert reports.
September 19, 2013	Complainants designate rebuttal expert(s) and produce expert reports; expert depositions begin.
October 3, 2013	End of expert deposition period.
October 17, 2013	Filing of Complainants' Proposed Findings of Fact, Supporting Evidence, and Brief.
November 14, 2013	Filing of Respondent's Opposition to Complainants' Proposed Findings of Fact, Respondent's Proposed Findings of Fact, Respondent's Supporting Evidence, and Respondent's Brief.
December 2, 2013	Filing of Complainants' Reply to Respondent's Proposed Findings of Fact and Reply to Respondent's Brief.

The parties shall schedule time to complete all depositions, supplemental discovery, and to have discovery motions resolved prior to the discovery cut-off date and they shall be prepared to proceed without any discovery requested after the discovery cut-off date. Further extension of time will only be granted with demonstration of good cause, even if the parties agree on the requested extension.

In addition, the parties shall follow the following format for submitting their briefs:

**A. Stipulations.**

The parties may, by stipulation, agree upon any facts involved in the proceeding. 46 C.F.R. § 502.162. The parties are expected to attempt to narrow the issues and to shorten the proceeding by stipulations. Stipulations must be signed by the parties. This document must set forth

stipulations in numbered paragraphs. Each paragraph must be limited as nearly as practicable to a single factual proposition. The parties must provide an electronic copy of the Stipulations in a word-processing format to the Office of Administrative Law Judges.

**B. Proposed Findings of Fact.**

This document must set forth proposed findings of fact in numbered paragraphs. 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 the party contends will support the proposed finding of fact; *i.e.*, a page number in the Appendix.<sup>1</sup> See 46 C.F.R. § 502.221. The party filing Proposed Findings of Fact must provide an electronic copy of the Proposed Findings of Fact in a word-processing format to all parties and to the Office of Administrative Law Judges.

**C. Response to Proposed Findings of Fact.**

This document must set forth verbatim each proposed finding of fact to which it responds, then admit or deny the proposed finding. 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 proposed finding of fact. The party filing a Response to Proposed Findings of Fact must provide an electronic copy of the Response in a word-processing format to all parties and to the Office of Administrative Law Judges.

**D. Appendix.**

The documentary evidence on which a party bases its Proposed Findings of Fact must be included in an Appendix in the following format:

1. The cover of the appendix must identify the party or parties that prepared the appendix; *e.g.*, “Complainants’ Appendix.”
2. The pages of the appendix must be numbered sequentially.
3. The appendix must begin with a table of contents identifying each document and identifying the appendix page at which each document begins and noting if any pages are entitled to confidential treatment.
4. Each party must ensure that all documents in its appendix are legible.

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<sup>1</sup> Parties must designate specific facts and provide the court with their location in the record. *Orr v. Bank of Am., NT & SA*, 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).

5. The parties are instructed, to the extent practicable, to cite to a document in an appendix already in the record rather than include the same document in its own appendix.
6. If a party includes documents in a language other than English in its appendix, Commission Rule 7 provides:

Every document, exhibit, or other paper written in a language other than English and filed with the Commission or offered in evidence in any proceeding before the Commission under this part or in response to any rule or order of the Commission pursuant to this part, must be filed or offered in the language in which it is written and must be accompanied by an English translation thereof duly verified under oath to be an accurate translation.

46 C.F.R. § 502.7. Unless the document has already been translated by another party, the party who wants to use the document must supply the translation.

7. The parties must avoid including multiple copies of the same document in the appendix.

**E. Brief.**

A party's brief must meet the requirements of Commission Rule 221, 46 C.F.R. § 502.221, with the exception that the proposed findings of fact required by section 502.221(d) must be included in the Proposed Findings of Fact described above. The pages of the Proposed Findings of Fact do not count toward the page limitation stated in Commission Rule 221(f). The party filing a brief must provide an electronic copy of the brief in a word-processing format to the Office of Administrative Law Judges.

**F. Confidential Information.**

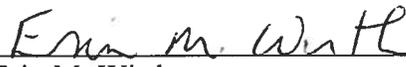
1. *Use in the proceeding* – If confidential information is contained in a brief or used as an exhibit in the appendix, the party seeking protection of the information must file a motion justifying confidential treatment. This motion must identify each item that the party seeks to protect and show good cause by demonstrating that the information is a trade secret or other confidential research, development, or commercial information. 46 C.F.R. § 502.201(j)(1)(vii).
2. *Filing* – A party must file two versions of confidential filings conspicuously marked as the “confidential version” and the “public version.” The

confidential version may be provided to the Presiding Officer by email but should not be filed with the Office of the Secretary by email pursuant to Commission Rule 5. 46 C.F.R. § 502.5.

3. *Marking confidential material* – When filing a brief with confidential material, the party must mark only the material that a party contends is confidential. The filing party must mark the confidential material in the confidential version of their submission with **{bold font and braces}**. For example, the confidential filing may read: “On January 1, 2005, complainant entered into a {25} year lease with respondent for a monthly rent of {\$1000}.” The public version would read: “On January 1, 2005, Complainant entered into a { } year lease with Respondent for a monthly rent of { }.”
4. *Exhibits* – Confidential information in exhibits should be marked as in paragraph 3 above. If marking within the text is not feasible, individual pages may be replaced in the public version with a page indicating that confidential material was excluded. Entire exhibits should not be excluded, only those pages containing confidential material.
5. *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.

**G. Electronic Copies of Documents in a Word-Processing Format.**

Electronic copies of documents in a word-processing format should be provided by email or on a portable electronic storage device. The parties are directed to consult with each other to determine the most practicable way to send electronic copies to each other. The parties are directed to send the electronic copy to the Office of Administrative Law Judges or send a portable electronic storage device directly to the Office of Administrative Law Judges.

  
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Erin M. Wirth  
Administrative Law Judge