

**BEFORE THE
FEDERAL MARITIME COMMISSION**

Docket No. 12-02

MAHER TERMINALS, LLC

COMPLAINANT

v.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

RESPONDENT

**JOINT MOTION TO STAY PROCEEDINGS PENDING THE OUTCOME OF
SETTLEMENT DISCUSSIONS**

Complainant Maher Terminals, LLC (“Maher”) and Respondent the Port Authority of New York and New Jersey (“Port Authority”), through their respective attorneys, hereby jointly move for a stay of all proceedings in this action for five weeks, through and including September 2, 2016, pending the outcome of their ongoing negotiations that hopefully will soon culminate in the settlement of both this proceeding and the Docket No. 08-03 action, which is currently pending before the full Federal Maritime Commission (“Commission”).

After eight years of intense litigation that has been extremely costly for both Maher and the Port Authority—and has consumed substantial resources of the Presiding Officer and the Commission—the parties are engaged in active settlement discussions in an effort to resolve the remaining disputes between them. The parties’ settlement negotiations have reached an advanced stage.

To avoid the unnecessary expense, disruption, and other burdens that continuing to litigate would entail while the parties seek to conclude their settlement, Maher and the Port Authority jointly request that the Presiding Officer stay this proceeding for five weeks, pending the outcome of the settlement discussions. “[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. N. American Co.*, 299 U.S. 248, 254 (1936); *accord APM Terminals N. Am., Inc. v. Port Auth. of N.Y. & N.J.*, 31 S.R.R. 250, 254 (A.L.J. 2008) (Dkt. No. 07-01). A stay of litigation pending settlement negotiations, which “the law encourages,” will be warranted where the stay will safeguard the parties’ “interests . . . in attempting to resolve their differences unencumbered by the additional pressure of simultaneously participating in [litigation]” and “reduce the impact on the Commission’s resources.” *APM Terminals*, 31 S.R.R. at 254. Issuance of a temporary stay in this case is appropriate because it will enable the parties to pursue their negotiations without undertaking the significant expense and burdens that this proceeding otherwise would entail, and avoid the unnecessary waste of the scarce resources of the Presiding Officer and the Commission.

Maher and the Port Authority additionally request that the Presiding Officer direct that the parties are permitted to lift the stay order before the five-week period expires, either by joint motion or by one party’s motion made upon 10 days written notice to the other party. The parties are simultaneously filing a similar motion with the full Commission seeking a stay of proceedings in the Docket No. 08-03 action currently pending before it. Upon finalization of the settlement agreement, the parties intend to file a joint motion for approval of the settlement agreement and dismissal of this action and the Docket No. 08-03 action with prejudice. The parties anticipate that they will finalize the settlement agreement by or before the end of five

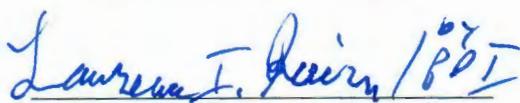
weeks but, if they do not, they will submit a status report and either a joint motion for a brief extension of the stay or a proposed discovery schedule.

A proposed stay order is attached for the Presiding Officer's consideration.

Dated: July 29, 2016

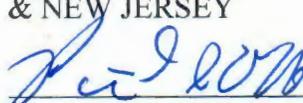
Respectfully submitted,

FOR MAHER TERMINALS, LLC



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ORDER

Complainant Maher Terminals, LLC (“Maher”) and Respondent the Port Authority of New York and New Jersey (“Port Authority”) having filed a joint motion for a stay, all proceedings in this action are hereby stayed for five weeks, through and including September 2, 2016, pending the outcome of settlement negotiations currently being conducted by the parties. This Stay Order shall be lifted immediately upon the receipt of a joint motion by Maher and the Port Authority or of a motion by either Maher or the Port Authority made upon 10 days written notice to the other party. On September 2, 2016, if the parties have not yet concluded their settlement, they shall submit a status report and either a joint motion for a brief extension of the stay or a proposed discovery schedule.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the persons listed below in the matter indicated.

<p><u>Via Federal Express and Email:</u> Lawrence I. Kiern Bryant E. Gardner Winston & Strawn LLP 1700 K Street, N.W. Washington DC 20006-3817</p>	<p>Dated at New York, NY this 29th day of July 2016</p>
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Kami Lizarraga