

**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 STATUS REPORT

Complainant, Maher Terminals, LLC (“Maher”) and Respondent Port Authority of New York and New Jersey (“PANYNJ”) hereby submit this Joint Status Report pursuant to the Presiding Officer’s Scheduling Order dated January 29, 2016 (the “Scheduling Order”).

On February 16, 2016, the parties exchanged discovery requests. Specifically, PANYNJ served its Amended First Request for Production of Documents and Second Set of Interrogatories on Maher and Maher served its Revised First Request for Production of Documents and its Revised First Set of Interrogatories on the PANYNJ. The parties are analyzing the respective discovery requests and preparing discovery responses pursuant to the March 17, 2016 deadline established by the Presiding Officer. The Port Authority objects to the number of interrogatories and to the excessive scope – both substantively and temporally – of the thirty-eight additional interrogatories served by Maher as well as its revised document requests, and intends to meet and confer with Maher to see if motion practice can be avoided. PANYNJ

communicated its position to Maher on February 29, 2016 in the exchange of submissions for this status report. Maher does not agree with PANYNJ's characterization. Maher is unaware of any specific objections by PANYNJ which have not been communicated to Maher, but will consider them when provided by PANYNJ.

On February 18, 2016, the parties filed a joint motion for entry of the proposed protective order. On February 22, 2016, the Presiding Officer issued the Protective Order.

On January 20, 2016, PANYNJ had served its Answer to Maher Terminals, LLC's Complaint filed on March 30, 2012. On February 10, 2016, Maher communicated to PANYNJ its position that the Answer was deficient because it lacked a verification and facts supporting the alleged affirmative defenses. On February 18, 2016, PANYNJ filed its Amended Answer, including a verification.

On February 26, 2016, Maher again informed PANYNJ of Maher's position that the Amended Answer remains deficient insofar as its defenses are inappropriate as affirmative defenses set forth in the answer and because of the lack of alleged facts in support of such defenses. Maher further communicated its position that if PANYNJ fails to cure the deficiencies, then Maher will be compelled to file a motion to strike. PANYNJ's position is that its Amended Answer complies with the requirement of Federal Maritime Rules of Practice and Procedure § 502.62(b)(2), that there is no need to further amend, and that any motion to strike would be meritless and an unnecessary waste of resources. PANYNJ notified Maher of PANYNJ's position on February 29, 2016, in the course of exchanging submission for this status report. Maher's position is that the Amended Answer is plainly deficient and that Maher should not be forced to waste resources on needless discovery regarding improperly pleaded affirmative

defenses. Maher's position is that further amendment of the affirmative defenses with the required and verified facts or, failing that, action by the Presiding Officer to strike improperly pleaded affirmative defenses will streamline the proceeding and save resources of both the parties and the Commission.

Dated: March 1, 2016

Respectfully submitted,

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