

**Federal Maritime Commission, Washington D.C.**

**Docket No. 1923(F)**

**THE EAGLES WINGS FOUNDATION**

**v.**

**CHATELAIN CARGO SERVICES**

**RESPONDENT'S NOTICE OF CLARIFICATION**

COMES NOW the Respondent, by and through its undersigned attorneys, and files its Notice of Clarification with respect to the Complainant, THE EAGLE WINGS FOUNDATION's, Notice of Voluntary Dismissal and states as follows:

1. On or about October 3, 2011, EWF filed its Notice of Voluntary Dismissal requesting that this matter be dismissed without prejudice and stating that it has retained legal counsel to pursue a legal action in Palm Beach County Florida Circuit Court "as recommended by the Respondents' law firm in one of its recent pleading to this Court." See EWF Notice of Voluntary Dismissal.
2. This tribunal issued its Memorandum and Order Dismissing Complainant without Prejudice ("Dismissal Order") on October 3, 2011, quoting the above quoted language in the Dismissal Order.
3. Respondent must clarify to this tribunal that its law firm has never, during the course of these proceedings or at any other time, recommended that suit connected with the shipment at issue be brought against Respondent, or any other entity, in Palm Beach County, Florida. Rather, Respondent has repeatedly stated that it believes no action,

whether before the FMC or in the courts of any jurisdiction, is proper, but in the event that an action is brought the courts of competent jurisdiction in Haiti are the only proper venue for any such legal action.

4. Complainant's statement that it will be filing suit in Palm Beach County, Florida upon recommendation of Respondent's counsel is therefore inaccurate and constitutes a misrepresentation to this tribunal.
5. Further, Respondent respectfully retains the right to pursue legal fees and costs associated with the defense of the frivolous and improper action brought by EWF before the FMC or in the courts of any other improper jurisdiction.

WHEREFORE, the Respondent respectfully files this Notice of Clarification, respectfully requests that this Honorable tribunal take notice of same and for whatever other relief this tribunal deems just and proper.

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via Regular U.S. Mail and email on this 3<sup>rd</sup> day of October, 2011, to: the Honorable Clay G. Guthridge, Administrative Law Judge, Federal Maritime Commission, Office of the Administrative Law Judges, 800 North Capitol Street, N.W., Washington, D.C. 20573-0001; email: judges@fmc.gov; was emailed to the Federal Maritime Commission, Office of the Secretary at Secretary@fmc.gov; and sent via Regular U.S. Mail to Scott Lewis, President, The Eagles Wings Foundation, 375 Possum Pass, West Palm Beach, Florida 33413.

Respectfully submitted this <sup>3<sup>rd</sup></sup> day of October, 2011.

By: 

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