

S E R V E D  
June 10, 2008  
FEDERAL MARITIME COMMISSION

**FEDERAL MARITIME COMMISSION**

**WASHINGTON, D.C.**

**DOCKET NO. 06-05**

**VERUCCI MOTORCYCLES, LLC**

**v.**

**SENATOR INTERNATIONAL OCEAN, LLC**

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**THIRD ORDER REGARDING ALTERNATIVE DISPUTE RESOLUTION AND  
PROCEDURAL ORDER**

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On May 7, 2008, the Commission issued an Order reopening this proceeding “for the purpose of taking further evidence,” *Verucci Motorcycles, LLC v. Senator International Ocean, LLC*, FMC No. 06-05, slip op. at 5 (May 7, 2008) (Order Reopening the Proceeding), and remanding it to the presiding Administrative Law Judge. The Commission’s Order directed that I “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.” *Id.* at 5-6. Pursuant to this direction, I directed the parties to contact Ronald D. Murphy, the Commission’s Alternative Dispute Resolution Specialist, to discuss the feasibility of resolving this matter through alternative dispute resolution. I asked Mr. Murphy to advise me in writing: (1) whether each party had complied with the directive to consult with the Commission’s Alternative Dispute Resolution Specialist; and (2) whether the parties agreed to engage in alternative dispute resolution. *Verucci Motorcycles, LLC v. Senator International Ocean, LLC*, FMC No. 06-05 (ALJ May 8, 2008) (Order Regarding Alternative Dispute Resolution).

On May 16, 2008, Mr. Murphy advised me that “both parties to the subject proceeding have contacted me and agreed to mediate the matter. I will be contacting them next week with respect to arranging for the mediation.” *Verucci Motorcycles, LLC v. Senator International Ocean, LLC*, FMC No. 06-05 (ALJ May 16, 2008) (Second Order Regarding Alternative Dispute Resolution). I asked Mr. Murphy to advise me in writing on June 13, 2008, or on such earlier date as he deemed appropriate, whether the parties had reached a settlement. *Id.*

On June 10, 2008, Mr. Murphy notified me by email that “there will be no mediation in this proceeding, as the parties have been unable to agree on logistical matters for conducting mediation, specifically a time for mediation. Accordingly, with the concurrence of the parties, the assigned mediator in this matter . . . has terminated all efforts to schedule mediation.” See attached email dated Tuesday, June 10, 2008, 2:39 PM from Ronald Murphy to Clay Guthridge.

As the parties have been unable to reach an agreement through mediation, it will be necessary to conduct the proceedings contemplated by the Commission’s Order. The Commission’s Order provides:

That the Complainant is directed to submit its Rule 95 Statement and to supplement its responses as directed in the ALJ’s December 21, 2007 Order, within 45 days from the date of this Order; Complainant is instructed to strictly adhere to such orders as may be issued by the ALJ henceforth; and

IT IS FINALLY ORDERED, That the ALJ shall dismiss this proceeding with prejudice if Verucci fails to file its Rule 95 Statement and to supplement its responses as directed in the ALJ’s December 21, 2007 Order, within 45 days from this Order.

*Verucci Motorcycles, LLC v. Senator International Ocean, LLC*, FMC No. 06-05, slip op. at 6 (May 7, 2008) (Order Reopening the Proceeding). Forty-five days from May 7, 2008, is June 21, 2008, a Saturday. Therefore, pursuant to the Commission’s Order, Verucci’s submissions are due June 23, 2008. See 46 C.F.R. § 502.101 (“In computing any period of time under the rules in this part, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or national legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or national legal holiday.”).

Since the parties have been attempting to mediate this proceeding, Verucci cannot be expected to file the required documents so soon after the termination of efforts at mediation. Therefore, I will *sua sponte* enlarge the time for Verucci to “submit its Rule 95 Statement and to supplement its responses as directed in the ALJ’s December 21, 2007 Order” to a date forty-five days from this date; that is, July 25, 2008.



Clay G. Guthridge  
Administrative Law Judge

## Clay Guthridge

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**From:** Ronald Murphy  
**Sent:** Tuesday, June 10, 2008 2:39 PM  
**To:** Clay Guthridge  
**Cc:** Venetia D. Bell  
**Subject:** Docket 06-05: Veruccii Motorcycles, LLC v. Senator Internation Ocean, LLC

By this email, I am reporting there will be no mediation in this proceeding, as the parties have been unable to agree on logistical matters for conducting mediation, specifically a time for mediation. Accordingly, with the concurrence of the parties, the assigned mediator in this matter, Ms. Venetia Bell, has terminated all efforts to schedule mediation.

Ronald D. Murphy, Director  
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Federal Maritime Commission  
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