

Federal Maritime Commission

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shall be sufficient to bring the matter before the Commission for review.

(h) Within thirty (30) days after service of a final decision by a Settlement Officer, any party may file a petition for reconsideration. Such petition shall be directed to the Settlement Officer and shall act as a stay of the review period prescribed in paragraph (g) of this section. A petition will be subject to summary rejection unless it: (1) Specifies that there has been a change in material fact or in applicable law, which change has occurred after issuance of the decision or order; (2) identifies a substantive error in material fact contained in the decision or order; (3) addresses a material matter in the Settlement Officer's decision upon which the petitioner has not previously had the opportunity to comment. Petitions which merely elaborate upon or repeat arguments made prior to the decision or order will not be received. Upon issuance of a decision or order on reconsideration by the Settlement Officer, the review period prescribed in paragraph (g) of this section will recommence. [Rule 304.]

[49 FR 44369, Nov. 6, 1984, as amended at 59 FR 59170, Nov. 16, 1994; 67 FR 39859, June 11, 2002; 70 FR 10329, Mar. 3, 2005]

§ 502.305 Applicability of other rules of this part.

Except §§ 502.253 and 502.254 or as otherwise specifically provided in this subpart, the rules in subparts A through Q, inclusive, of this part do not apply to situations covered by this subpart. [Rule 305.]

[64 FR 7812, Feb. 17, 1999]

EXHIBIT NO. 1 TO SUBPART S [§ 502.304(a)] OF PART 502—SMALL CLAIM FORM FOR INFORMAL ADJUDICATION AND INFORMATION CHECKLIST

Federal Maritime Commission, Washington, DC.

Informal Docket No. _____

(Claimant) vs.

(Respondent)

I. The claimant is [state in this paragraph whether claimant is an association, corpora-

tion, firm or partnership, and if a firm or partnership, the names of the individuals composing the same. State the nature and principal place of business.]

II. The respondent named above is [state in this paragraph whether respondent is an association, corporation, firm or partnership, and if a firm or partnership, the names of the individuals composing the same. State the nature and principal place of business.]

III. That [state in this and subsequent paragraphs to be lettered A, B, etc., the matters that gave rise to the claim. Name specifically each rate, charge, classification, regulation or practice which is challenged. Refer to tariffs, tariff items or rules, or agreement numbers, if known. If claim is based on the fact that a firm is a common carrier, state where it is engaged in transportation by water and which statute(s) it is subject to under the jurisdiction of the Federal Maritime Commission].

IV. If claim is for overcharges, state commodity, weight and cube, origin, destination, bill of lading description, bill of lading number and date, rate and/or charges assessed, date of delivery, date of payment, by whom paid, rate or charge claimed to be correct and amount claimed as overcharges. [Specify tariff item for rate or charge claimed to be proper].

V. State section of statute claimed to have been violated. (Not required if claim is for overcharges).

VI. State how claimant was injured and amount of damages requested.

VII. The undersigned authorizes the Settlement Officer to determine the above-stated claim pursuant to the informal procedure outlined in subpart S (46 CFR 502.301-502.305) of the Commission's informal procedure for adjudication of small claims subject to discretionary Commission review.

Attach memorandum or brief in support of claim. Also attach bill of lading, copies of correspondence or other documents in support of claim.

(Date) _____

(Claimant's signature) _____

(Claimant's address) _____

(Signature of agent or attorney) _____

(Agent's or attorney's address) _____

VERIFICATION

State of _____, County of _____, ss: _____, being first duly sworn on oath deposes and says that he or she is

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46 CFR Ch. IV (10-1-06 Edition)

The claimant [or if a firm, association, or corporation, state the capacity of the affiant] and is the person who signed the foregoing claim, that he or she has read the foregoing and that the facts set forth without qualification are true and that the facts stated therein upon information received from others, affiant believes to be true.

(Signed) _____
(Capacity) _____

Verification

State of _____, County of _____, ss: _____, being first duly sworn on oath deposes and says that he or she is _____, (Title or Position) and is the person who signed the foregoing and agrees without qualification to its truth.

Subscribed and sworn to before me, a notary public in and for the State of _____, County of _____, this ____ day of _____ 19___. (Seal)

Subscribed and sworn to before me, a notary public in and for the State of _____, County of _____, this _____ day of _____, 19___. (Seal)

(Notary Public)

(Notary Public)

My Commission expires, _____

My Commission expires. _____

Information To Assist in Filing Informal Complaints

Certificate of Service [See § 502.320]

Informal Docket procedures are limited to claims of \$10,000 or less and are appropriate only in instances when an evidentiary hearing on disputed facts is not necessary. Where, however, a respondent elects not to consent to the informal procedures [See Exhibit No. 2 to subpart S], the claim will be adjudicated by an administrative law judge under subpart T of Part 502.

Subpart T—Formal Procedure for Adjudication of Small Claims

Under the Shipping Act of 1984 [for foreign commerce], the claim must be filed within three (3) years from the time the cause of action accrues and may be brought against any person alleged to have violated the 1984 Act to the injury of claimant.

§ 502.311 Applicability.

A violation of a specific section of a particular shipping statute must be alleged.

In the event the respondent elects not to consent to determination of the claim under subpart S of this part, it shall be adjudicated by the administrative law judges of the Commission under procedures set forth in this subpart, if timely filed under § 502.302. The previously assigned Docket Number shall be used except that it shall now be followed by capital "F" instead of "I" in parentheses (See § 502.304(c)). The complaint shall consist of the documents submitted by the claimant under subpart S of this part. [Rule 311.]

The format of Exhibit No. 1 must be followed and a verification must be included. (See §§ 502.21-502.32, 502.112, and 502.304.) An original and two (2) copies of the claim and all attachments, including a brief in support of the claim, must be submitted.

§ 502.312 Answer to complaint.

[49 FR 44369, Nov. 6, 1984; 49 FR 47394, Dec. 4, 1984, as amended at 55 FR 28400, July 11, 1990; 64 FR 7812, Feb. 17, 1999]

The respondent shall file with the Commission an answer within twenty-five (25) days of service of the complaint and shall serve a copy of said answer upon complainant. The answer shall admit or deny each matter set forth in the complaint. Matters not specifically denied will be deemed admitted. Where matters are urged in defense, the answer shall be accompanied by appropriate affidavits, other documents, and memoranda. [Rule 312.]

EXHIBIT NO. 2 TO SUBPART S [§ 502.304(e)] OF PART 502—RESPONDENT'S CONSENT FORM FOR INFORMAL ADJUDICATION

[49 FR 44369, Nov. 6, 1984; 49 FR 47394, Dec. 4, 1984]

Federal Maritime Commission, Washington, DC.

Informal Docket No. _____

Respondent's Affidavit

I authorize the Settlement Officer to determine the above-numbered claim in accordance with subpart S (46 CFR 502) of the Commission's informal procedure for adjudication of small claims subject to discretionary Commission Review.

(Date) _____