

## § 502.62

and when practicable the parties shall consider the use of alternative dispute resolution in such manner as the presiding officer shall direct and further requiring that hearings shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. [Rule 61.]

[49 FR 44369, Nov. 6, 1984, as amended at 58 FR 38649, July 19, 1993; 64 FR 7808, Feb. 17, 1999; 64 FR 23551, May 3, 1999; 66 FR 43512, Aug. 20, 2001]

### § 502.62 Complaints and fee.

(a) The complaint must be verified and shall contain the name and address of each complainant, the name and address of each complainant's attorney or agent, the name and address of each person against whom complaint is made, a concise statement of the cause of action, and a request for the relief or other affirmative action sought.

(b) Where reparation is sought and the nature of the proceeding so requires, the complaint shall set forth: the ports of origin and destination of the shipments; consignees, or real parties in interest, where shipments are on "order" bill of lading; consignors; date of receipt by carrier or tender of delivery to carrier; names of vessels; bill of lading number (and other identifying reference); description of commodities; weights; measurement; rates; charges made or collected; when, where, by whom and to whom rates and charges were paid; by whom the rates and charges were borne; the amount of damage; and the relief sought. Except under unusual circumstances and for good cause shown, reparation will not be awarded upon a complaint in which it is not specifically asked for, nor upon a new complaint by or for the same complainant which is based upon a finding in the original proceeding. Wherever a rate, fare, charge, rule, regulation, classification, or practice is

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involved, appropriate reference to the tariff should be made, if possible.

(c) If the complaint fails to indicate the sections of the acts alleged to have been violated or clearly to state facts which support the allegations, the Commission may, on its own initiative, require the complaint to be amended to supply such further particulars as it deems necessary.

(d) The complaint should designate the place at which hearing is desired.

(e) Complainant(s) must state whether informal dispute resolution procedures were used prior to filing the complaint and whether complainant(s) consulted with the Commission Dispute Resolution Specialist about utilizing alternative dispute resolution (ADR) under the Commission's ADR program.

(f) A form of complaint is set forth in Exhibit No. 1 to this subpart.

(g) The complaint shall be accompanied by remittance of a \$221 filing fee.

(h) Complainants desiring to use the discovery provisions of subpart L must commence discovery at the time the complaint is filed, pursuant to § 502.201(b).

(i) For special types of cases, see § 502.271 in subpart Q (Refund or waiver of freight charges); subpart K (Shortened Procedure); and subpart S (Small Claims). [Rule 62.]

[49 FR 44369, Nov. 6, 1984, as amended at 55 FR 28399, July 11, 1990; 63 FR 50535, Sept. 22, 1998; 64 FR 7808, Feb. 17, 1999; 66 FR 43513, Aug. 20, 2001; 67 FR 39859, June 11, 2002; 70 FR 10329, Mar. 3, 2005]

### § 502.63 Statute of limitations for reparations.

(a) Complaints seeking reparation pursuant to section 11 of the Shipping Act of 1984 shall be filed within three years after the cause of action accrues.

(b) The Commission will consider as in substantial compliance with a statute of limitations a complaint in which complainant alleges that the matters complained of, if continued in the future, will constitute violations of the shipping acts in the particulars and to the extent indicated and in which complainant prays for reparation accordingly for injuries which may be sustained as a result of such violations.