

(S E R V E D)
(December 24, 2009)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

Docket No. 09-08

**SSA TERMINALS, LLC
AND
SSA TERMINALS (OAKLAND), LLC**

v.

**THE CITY OF OAKLAND, ACTING BY AND THROUGH
ITS BOARD OF PORT COMMISSIONERS**

Notice of Filing of Complaint and Assignment


Notice is given that a complaint has been filed with the Federal Maritime Commission ("Commission") by SSA Terminals, LLC and SSA Terminals (Oakland), LLC (jointly referred to as "SSAT"). Complainant asserts that SSA Terminals, LLC is a Delaware limited liability company and that SSA Terminals (Oakland), LLC is a California limited liability company. Complainant alleges that Respondent, the City of Oakland acting by and through its Board of Port Commissioners (hereinafter "the Port"), is a municipal department established and existing under Article VII of the Charter of the City of Oakland. Complainant also alleges that the Port is a marine terminal operator within the meaning of

the Shipping Act, 46 U.S.C. § 40102(14). Complainant asserts that, through means of an assignment and subassignment agreement, Complainant leases Berths 57-59 from Respondent. Complainant alleges that Respondent and Ports America Outer Harbor Terminal, LLC ("PAOHT") are parties to a lease agreement for Berths 20-24 which violates the Shipping Act by granting more reasonable terms for the rental and use of marine terminal facilities to PAOHT than those provided to SSAT. Specifically, Complainant alleges that Respondent has violated the Shipping Act by: (1) imposing an undue or unreasonable prejudice or disadvantage with respect to SSAT; (2) giving an undue or unreasonable preference or advantage to PAOHT; (3) refusing to deal or negotiate with SSAT; and (4) failing to establish, observe and enforce just and reasonable regulations and practices relating to or connected with receiving, handling and storing or delivering property. 46 U.S.C. §§ 41106(2) and (3) and 41102 (c). Complainant maintains that, as a consequence of the Port's agreement with PAOHT, Complainant has sustained and continues to incur injuries and damages, including lost business and higher rents, and other payments and obligations to the Respondent, thereby suffering damages in the millions of dollars.

Complainant requests that the Commission require Respondent to answer the charges in this Complaint, cease and desist from engaging in violations of the Shipping Act, and put in force such practices as the Commission determines to be lawful and reasonable. Complainant also requests that an order be issued requiring Respondent to pay SSAT reparations for violations of the Shipping Act, including the amount of the actual injury, plus interest, costs and attorney fees, and any other damages to be determined; and that the Commission order any such other relief as it determines appropriate. Complainant

requests that a hearing be held in Washington, D.C.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 C.F.R. 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing 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. Pursuant to the further terms of 46 C.F.R. 502.61, the initial decision of the presiding officer in this proceeding shall be issued by December 28, 2010, and the final decision of the Commission shall be issued by April 27, 2011.


Karen V. Gregory
Secretary