

U.S. DEPARTMENT OF TRANSPORTATION
SURFACE TRANSPORTATION BOARD

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Office of Proceedings
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Part of
Public Record

DHX, INC.,

Complainant,

v.

STB Docket No. WCC-105

MATSON NAVIGATION COMPANY
and SL SERVICE, INC., f/k/a
SEA-LAND SERVICE, INC.,

Defendants.

MOTION FOR EXPEDITED CONSIDERATION OF
REQUEST TO STAY PROCEDURAL SCHEDULE



COMES NOW, Complainant, DHX, Inc., by and through its counsel, and submits this motion for expedited consideration of Complainant's concurrent request to stay the procedural schedule in this proceeding. On August 25, 2003 the parties agreed to a procedural schedule which involved Complainant submitting its Opening Statements on October 21, 2003. the schedule permitted the parties to complete informal exchanges of information and documents.

The parties undertook a series of Depositions in Oakland and Long Beach California in July 2003. The parties further worked out understandings and agreements regarding responses to interrogatories, document production requests and deposition documents and materials. Counsel for Complainant and counsel for Defendant SL Service, Inc. f/k/a Sea-Land Service had agreed to the production of certain documents by Defendant. Counsel for Complainant sought to obtain informal compliance and it was represented by counsel for Defendant that such documents would be forthcoming. On September 29th, counsel

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for Defendant forwarded the only documents that he was provided by Defendant Sea-Land Service, Inc. The documents being sought are essential to Complainant's case and Complainant can not successfully go forward with its case in the absence of such records.

The Board has set this proceeding for handling under Modified Procedure. Today Complainant has been required to file a motion to compel production of documents and further requesting a Stay of the procedural schedule. Board Rule 1112.2 does not result in the automatic stay of a procedural order. Board Rule 1112.2 permits the Board to revise the schedule. Board Rule 1104.3 permits a time period of 20 days in which to reply to any motion. However, Rule 1104.3 also permits the Board to change that time frame.

Accordingly, it is hereby requested that the Board SHORTEN the time period for response to Complainant's motion to stay the procedural schedule to a period of five (5) days, or in the alternative, immediately ruling on that aspect of Complainant's motion. The sought information is relevant, material and as demonstrated in Attachment No. 2 to Complainant's motion is necessary to Complainant's case.^{1/}

^{1/}

The motion is captioned as 'Motion to Stay Procedural Schedule, To Renew Motion To Compel Production of Documents and to Defer Filing of Public Version of Complainant's Case' and has been submitted contemporaneous with this motion for expedited consideration.

3.

Conclusion

WHEREFORE, in consideration of the above and foregoing, it is hereby respectfully requested that Complainant's Motion For Expedited Consideration of Request to Stay Procedural Schedule be immediately considered by the Board, or in the alternative, that the time for response to the Request to Stay be shorted to a period of 5 days concluding October 10, 2003.

Respectfully submitted,



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Counsel For Complainant
DHX, Inc.

Dated - 3 October 2003

Certificate of Service

I hereby certify that a copy of this document has been served, by hand delivery of a copy of the same, on counsel for Defendants as listed below.

Dated this 3rd day of October 2003.


