

TROUTMAN SANDERS LLP

ATTORNEYS AT LAW
A LIMITED LIABILITY PARTNERSHIP

401 9TH STREET, N.W. - SUITE 1000
WASHINGTON, D.C. 20004-2134
www.troutmansanders.com
TELEPHONE: 202-274-2950

Leonard Fleisig
Leonard.Fleisig@troutmansanders.com

Direct Dial: 202-274-2863
Fax: 202-654-5645

FEB 7 2005

RECEIVED

February 7, 2005

213189

ENTERED
Office of Proceedings

FEB -7 2005

Part of
Public Record

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

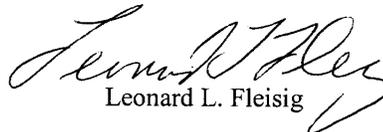
Re: GOVERNMENT OF THE TERRITORY OF GUAM, et al.,
STB Docket No. WCC-101

Dear Secretary Williams:

Please accept for filing an original and 11 copies of the "*MOTION FOR RECONSIDERATION OF PROCEDURAL ORDER OR, ALTERNATIVELY, MOTION SEEKING IMMEDIATE ISSUANCE OF ORDER TO SHOW CAUSE WHY THIS PROCEEDING SHOULD NOT BE DISMISSED*" in the above referenced proceeding. Please acknowledge receipt and filing of the enclosed material by date-stamping the eleventh copy of this letter and returning it to the individual making this filing for return to me.

If there are any questions concerning this filing, please contact me at 202-274-2863.

Yours very truly,


Leonard L. Fleisig

Before the
SURFACE TRANSPORTATION BOARD

GOVERNMENT OF THE TERRITORY
OF GUAM, et al.,

Complainants,

v.

SEA-LAND SERVICE, INC. and
MATSON NAVIGATION COMPANY,
INC.

Respondents.

Docket No. WCC-101

213189

ENTERED
Office of Proceedings
FEB -7 2005
Part of
Public Record

MOTION FOR RECONSIDERATION OF PROCEDURAL ORDER OR, ALTERNATIVELY,
MOTION SEEKING IMMEDIATE ISSUANCE OF ORDER TO SHOW CAUSE WHY THIS
PROCEEDING SHOULD NOT BE DISMISSED

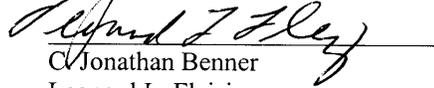
Defendant Horizon Lines, LLC ("Horizon") hereby notes its objection to the action by the Board on 3 February 2005 postponing indefinitely the 10 February 2005 oral argument of this matter and placing this proceeding in abeyance. The oral argument had been scheduled for 10 February after being previously postponed from 10 November 2004. That postponement was ordered by the Board on the virtual eve of argument (after substantial preparation had been undertaken) at the request of plaintiff Government of Guam (GovGuam). Defendant carriers, while striving to be considerate of GovGuam's stated concerns that underlay the November request, opposed the length of the requested postponement and had suggested a shorter period of extension than was eventually granted by the Board. Given the Board's generosity in granting a three-month extension, Horizon had no reason to contemplate that the 10 February 2005 date

would not prove adequate to protect GovGuam's interests. Prior to yesterday's order, Horizon had received no communication or indication that GovGuam would not appear at the appointed time for argument and had made preparations accordingly. The parties and the Board had every right to expect that all involved would honor the schedule ordered by the Board, particularly after the Board's indulgence in granting the previous extension.

This action was initiated by complaint of GovGuam filed with the Board in September of 1998. It is a continuation in the STB forum of a dispute that commenced in 1987 before the Federal Maritime Commission. Defense of these actions has cost Horizon and its predecessor companies substantial sums that cannot be recouped. The issues are complex and, as they relate to the statutes administered by the Board, present novel considerations that require meticulous preparation for briefing and argument. The unexpected and apparently *sua sponte* decision of the Board to delay further these proceedings adds to these costs and frustrates Horizon's desire to move as rapidly as possible to a definitive resolution of a contest that has been, in Horizon's view, grossly wasteful of the resources of both the carriers and the public funds of the citizens of Guam. Each time the parties approach to within a week of oral argument and then are required to suspend preparations, they incur substantial costs.

For these reasons, Horizon requests that the Board reinstate 10 February 2005 as the date of oral argument or reschedule the argument for a date as soon thereafter as is practicable (*e.g.*, the following week). Alternatively, if the Board has information indicating that GovGuam does not intend to prosecute its claim, it is incumbent on the Board to act with all dispatch to dismiss this action with prejudice.

Respectfully submitted,

Jonathan Benner
Leonard L. Fleisig
TROUTMAN SANDERS LLP
401 Ninth Street, NW
Suite 1000
Washington, D.C. 20004
(202) 274-2880

Counsel for Horizon Lines LLC.

Dated: February 7, 2005

CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2005 a copy of the foregoing *MOTION FOR RECONSIDERATION OF PROCEDURAL ORDER OR, ALTERNATIVELY, MOTION SEEKING IMMEDIATE ISSUANCE OF ORDER TO SHOW CAUSE WHY THIS PROCEEDING SHOULD NOT BE DISMISSED* was served by first class mail upon the following counsel:

Mary Eva Candon, Esq.
1225 19th Street, N.W.
Suite 800
1225 19th Street, N.W.
Washington, DC 20036

Richard A. Allen
ZUCKERT, SCOUTT & RASENBERGER, LLP
888 Seventeenth Street, NW
Suite 600
Washington, D.C. 20006

Rick A. Rude
Attorney At Law
207 Park Avenue
Suite 103
Falls Church, Virginia 22046



Leonard L. Fleisig