

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

Old Dominion Freight Line, Inc.,)
Plaintiff)
v.)
Old Colony Baking Company, Inc.,)
Defendant)

Case No. 10-1007

ORDER

Plaintiff's original complaint in this matter inadequately alleged the subject matter jurisdiction of this court. Plaintiff was therefore directed to file an amended complaint that properly set forth the basis for federal jurisdiction. In the amended complaint, Plaintiff states that it is a motor carrier transporting goods and merchandise in interstate commerce and that it is subject to federal court jurisdiction under 49 U.S.C. § 13501. Therefore, concludes the amended complaint, the subject matter of this case is a federal question pursuant to 28 U.S.C. § 1337.

The eight paragraph amended complaint alleges that plaintiff transported goods and merchandise for the defendant in interstate commerce pursuant to its duly published tariffs. The value of the transportation services is alleged to be \$7,512.73. Plaintiff has demanded payment but defendant has refused to pay.

Section 13501 of title 49 provides:

[T]he district courts shall have jurisdiction of any civil action to enforce, in whole or in part, any order of the Surface Transportation Board, and to enjoin or suspend, in whole or in part, any order of the Surface Transportation Board for the payment of money or the collection of fines, penalties, and forfeitures.

Although the language of this section does not explicitly confer federal jurisdiction over actions such as this one, in Thurston Motor Lines v. Jordan K. Rand, Ltd., 460 US 533 (1983), the

Supreme Court made clear that federal question jurisdiction exists over an action by a carrier to recover freight charges for interstate transportation under tariffs regulated by the Interstate Commerce Act. See also, Old Dominion Freight Line v. Allou Distributors, Inc., 86 F. Supp. 2d 92 (E.D. N.Y. 2000).

Section 1337 of title 28 provides: “The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce. This Court therefore has jurisdiction.

ENTERED ON January 21, 2010

s/ John A. Gorman

JOHN A. GORMAN
UNITED STATES MAGISTRATE JUDGE

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