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[Home](#) > Shipper seeks FMC intervention after \$3 million in D&D charges

**Teri Errico Griffis, Associate Editor** | Jul 28, 2022 4:35PM EDT



A food importer was hit with nearly \$3 million in detention and demurrage fees by an NVO handling its reefer container business. Photo credit: Shutterstock.com.

A food importer is seeking relief from the Federal Maritime Commission (FMC) after the company says it was hit with almost \$3 million in detention and demurrage fees from a non-vessel-operating (NVO) common carrier at the Port of New York and New Jersey.

New York–based Bakerly says Seafrigo, an NVO based in New Jersey, billed it \$2,973,475 in fees from October 2021 through March 2022. Of that amount, \$2,357,244 was for demurrage, and \$616,230 for detention.

In reviewing the charges, Bakerly’s account team found multiple invoice billings per purchase order when only one should have been applied, the company said in a complaint to the FMC filed Wednesday. Bakerly put a stop payment on the invoices that had not been paid. The shipper now wants reimbursement for the \$973,227 it has already paid and is disputing the remaining charges.

“This invoicing negligence prevented Bakerly from paying any of these invoices as Seafrigo has never offered any explanations for any reason that the charges were repetitious even when paid,” the complaint said.

A spokesperson for Seafrigo told JOC.com Thursday the company had no comment. Bakerly could not be reached for comment.

The invoices were billed prior to the Ocean Shipping Reform Act of 2022 being signed into law June 16, under which parties may invoke self-executing provisions to eliminate detention and demurrage charges if the invoices are incomplete or incorrect. Bakerly said in the complaint that it should stand to reason that the invoices, no matter the timing, “do not pass the standards of the Interpretative Rule.”

“Failure to include accurate information on D&D invoices with any demurrage or detention charge eliminates any obligation of the charged party to pay the applicable charge based on the current provisions,” Bakerly said.

The complaint brought by Bakerly is another in a string of detention and demurrage cases the FMC has investigated of late. The agency hit Hapag-Lloyd with an \$882,220 civil penalty in April and Wan Hai with an \$850,000 fine a month later, both for detention cases. Bringing attention to violations has gotten easier under OSRA-22 and the FMC’s recent move to nix the need for lawyers and filing fees to submit a grievance with the agency.

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## Regulation & Policy

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