

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

TWIN CITIES AIR SERVICE, INC.,)

PLAINTIFF)

v.)

CIVIL No. 02-06-P-H

**UNITED STATES POSTAL)
SERVICE,)**

DEFENDANT)

ORDER ON MOTION TO DISMISS

The Postal Service’s motion to dismiss is **GRANTED** for lack of subject matter jurisdiction.

This is a lawsuit against the Postal Service seeking money damages for breach of contract. The plaintiff is proceeding under the Contract Disputes Act of 1978 (“CDA”), 41 U.S.C. §§ 601-13 (1994). Compl. ¶ 3. That statute vests exclusive jurisdiction in the United States Court of Federal Claims. 41 U.S.C. § 609 (a)(1).¹ Although the First Circuit has not spoken on the issue, there has been abundant caselaw from other circuits debating whether this jurisdictional provision of the CDA supplants the pre-existing provision of the Postal Reorganization Act (“PRA”), 39 U.S.C. §409(a) (1994), that otherwise placed jurisdiction in United States District Courts. Compare Campanella v. Commerce

¹ The Little Tucker Act, 28 U.S.C. § 1346(a)(2) (1994), granting concurrent jurisdiction in United States District Courts, does not apply because the plaintiff seeks more than \$10,000.

Exchange Bank, 137 F.3d 885, 890-91 (6th Cir. 1998), Kroll v. United States, 58 F.3d 1087, 1092-93 (6th Cir. 1995), A & S Council Oil Co. v. Lader, 56 F.3d 234, 241-42 (D.C. Cir. 1995), United States v. J & E Salvage Co., 55 F.3d 985, 987-88 (4th Cir. 1995), and Hayes v. United States Postal Service, 859 F.2d 354, 356-57 (5th Cir. 1988), with Wright v. United States Postal Service, 29 F.3d 1426, 1429-31 (9th Cir. 1994), In re Liberty Construction, 9 F.3d 800, 801-02 (9th Cir. 1993), and Marine Coatings of Alabama, Inc. v. United States, 932 F.2d 1370, 1377 (11th Cir. 1991). See also Licata v. United States Postal Service, 33 F.3d 259, 264 n.6 (3d Cir. 1994) (discussing, in dicta, the relationship between the CDA and the PRA). Suffice it to say that the cases favoring the CDA are more persuasive, especially A & S Council Oil Co. v. Lader, 56 F.3d 234 (D.C. Cir. 1995). Nothing would be gained by spilling more ink here.

So ORDERED.

DATED THIS 17TH DAY OF APRIL, 2002.

D. BROCK HORNBY
UNITED STATES CHIEF DISTRICT JUDGE

U.S. District Court
District of Maine (Portland)
Civil Docket For Case #: 02-CV-6

TWIN CITIES AIR SERVICE, INC.
plaintiff

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v.

UNITED STATES POSTAL SERVICE
defendant

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