

(S E R V E D)
(MARCH 24, 2016)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

DOCKET NO. 16-07

JILL M. ALBAN, GRANT M. ALBAN, MARY ARNOLD, AL BAKER, KATRINA BONAR, EMMETT R. BROPHY, STEVEN BRUZONSKY, MONICA BUSHEY, CRAIG BUSKE, DODA "DANNY" CAMAJ, STEPHANIE B. CROSBY, MELINDA DENEAU, JENNIFER DILLON, JEFFREY L. GANNON, PAMELA GOESSLING, THOMAS GOESSLING, SEAN GURNEY, SHERYL HALEY, LESLEY DENISE HART, BRUCE HERTZ, ELIZABETH ASHLEY HILL NÈE EDWARDS, MARIA KOOKEN, ADAIR LARA, CHRISTINE LASTER, KORI LEHRKAMP, MICHAEL LEHRKAMP, JOHN LEYVA, JOAN MACQUARRIE, DANIEL MORRIS, TONY NIKPRELAJ, GUSTAVO ADOLFO PEREZ, JUDY A. REIBER, ROBERTA ROTHSTEIN, JEFFREY RUBINSTEIN, ALEXANDRA SCOTT, JASON SMITH, CATHERINE TAYLOR, RICHARD TOMASKO, AND DEMIAN VARGAS,

V.

NIPPON YUSEN KABUSHIKI KAISHA, NYK LINE (NORTH AMERICA) INC., MITSUI O.S.K. LINES, LTD., MITSUI O.S.K. BULK SHIPPING (USA), INC., WORLD LOGISTICS SERVICE (USA) INC., HÖEGH AUTOLINERS AS, HÖEGH AUTOLINERS, INC., NISSAN MOTOR CAR CARRIERS CO. LTD., KAWASAKI KISEN KAISHA, LTD., "K" LINE AMERICA, INC., WALLENIIUS WILHELMSSEN LOGISTICS AS, WALLENIIUS WILHELMSSEN LOGISTICS AMERICAS LLC, EUKOR CAR CARRIERS INC., COMPAÑÍA SUD AMERICANA DE VAPORESS.A., AND CSAV AGENCY NORTH AMERICA, LLC

NOTICE OF FILING OF COMPLAINT AND ASSIGNMENT

Notice is given that a Complaint has been filed with the Federal Maritime Commission (Commission) by the above named Complainants, on behalf of themselves and all others similarly situated, hereinafter "Complainants," against the above named providers of "Vehicle Carrier Services" and unnamed co-conspirators, hereinafter "Respondents." The Complaint is brought as

a proposed class action. Complainants “seek to represent all persons and entities in the United States who purchased or leased a new, assembled motor vehicle for personal use and not for resale, incorporating a Vehicle Carrier Service charge charged by any Respondent or any current or former subsidiary or affiliate thereof, or any co-conspirator, from and including January 1, 2000” Complainants allege that Respondents “transport large numbers of cars, trucks, and other automotive vehicles including agriculture and construction equipment . . . across large bodies of water using specialized cargo ships known as Roll On/Roll Off vessels”

Complainants allege that Respondents violated provisions of the Shipping Act of 1984, including 46 U.S.C. 40302(a), 41102(b)(1), 41102(c), 41103(a)(1) and (2), 41104(10), 41105 (1) and (6), and the Commission’s regulations at 46 CFR 535.401 et seq., because they “participated in a combination and conspiracy to suppress and eliminate competition in the Vehicle Carrier Services market by agreeing to fix, raise, stabilize and/or maintain the prices of, and allocate the market and customers for Vehicle Carrier Services sold to automobile manufacturers and others in the United States, and elsewhere, for the import and export of new, assembled motor vehicles to and from the United States.”

Complainants request the following relief:

- 1) That Respondents be required to answer the charges herein;
- 2) That after due investigation and hearing Respondents be found to have violated 46 U.S.C. § § 40302(a), 41102(b)(l), 41102(c), 41103(a)(l) and (2), 41104(10), 41105(1) and (6), and 46 CFR § 535.401, et seq., and such other provisions as to which violations may be proved hereunder;
- 3) The FMC determine that this action may be maintained as a class action under Rule 23(a), (b)(2) and (b)(3) of the Federal Rules of Civil Procedure, and direct that reasonable notice

of this action, as provided by Rule 23(c)(2) of the Federal Rules of Civil Procedure, be given to each and every member of the Class;

4) That Complainants be awarded reparations in a sum to be proven under 46 U.S.C. § 41305, with interest (46 U.S.C. § 41305(a)) and reasonable attorneys' fees (46 U.S.C. § 41305 (b));

5) That Complainants be awarded double its proven actual injury under 46 U.S.C. § 41305(c) because Respondents and their co-conspirators violated 46 U.S.C. § 41102(b) and § 41105(1);

6) That Respondents be found jointly and severally liable for the conduct alleged herein including that of their co-conspirators; and

7) That such other and further order or orders be made as the FMC determines to be proper.

The full text of the complaint can be found in the Commission's Electronic Reading Room at www.fmc.gov/16-07.

This proceeding has been assigned to the Office of Administrative Law Judges. The initial decision of the presiding officer in this proceeding shall be issued by March 24, 2017 and the final decision of the Commission shall be issued by October 10, 2017.

Karen V. Gregory
Secretary