

Shipping Act Saga Continues for Ro/Ro Carriers



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In the latest development arising out of the Federal investigations into alleged anticompetitive activities among roll on, roll off carriers, original equipment manufacturer and automobile shipper Fiat Chrysler has filed a complaint with the U.S. Federal Maritime Commission alleging that the carriers “conspired and acted in concert to suppress competition for roll on, roll off cargo shipping services” purchased by plaintiffs. The complaint notes that U.S. Department of Justice proceedings are still ongoing, but have resulted in six shipping companies and four executives of those companies pleading guilty to violations of the Sherman Act, a primary Federal antitrust statute. The complaint further states the guilty pleas were for executing illegal agreements to allocate customers and routes, rig bids, and fix, stabilize, and maintain prices, resulting in the payment of fines totaling \$255 million. In 2015, General Motors filed a complaint with the Commission on similar grounds.

The Fiat Chrysler complaint alleges that the carriers’ conduct is in violation of the Shipping Act of 1984 and is still ongoing, resulting in plaintiffs overpaying for “hundreds of millions of dollars” in shipping services between 1997 and the present. Specifically, Fiat Chrysler alleges that the defendants entered into secret, unfilled agreements in violation of the Act. The complaint further alleges that, because current prices for roll on, roll off services are based on historic prices, plaintiffs continue to be injured by such agreements. Plaintiffs request an award of damages “in a sum to be determined” and a cease and desist order from the Commission.

Assuming it goes forward, the complaint will be adjudicated by an administrative law judge, and will then be subject to appeals to the Commission and subsequently a Federal Circuit Court of Appeals.

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