

Court File No. 1241/13CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MADAM)
JUSTICE LEITCH)

Thursday, THE 17 DAY
OF August , 2023

B E T W E E N :

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

RYAN TODD WONCH and MARGARET A. WONCH

Plaintiffs

-and-

NIPPON YUSEN KABUSHIKI KAISHA; NYK LINE (NORTH AMERICA) INC.; NYK
LINE (CANADA), INC.; MITSUI O.S.K. LINES, LTD.; MITSUI O.S.K. BULK SHIPPING
(U.S.A.), INC.; KAWASAKI KISEN KAISHA, LTD.; "K" LINE AMERICA, INC.;
EUKOR CAR CARRIERS, INC.; WILH. WILHELMSSEN HOLDING ASA; WILH.
WILHELMSSEN ASA; WALLENIUS LINES AB; WALLENIUS WILHELMSSEN LOGISTICS
AMERICAS, LLC; WALLENIUS WILHELMSSEN LOGISTICS AS; WWL VEHICLE
SERVICES CANADA LTD.; COMPANIA SUD AMERICANA DE VAPORES S.A.;
NISSAN MOTOR CAR CARRIER CO., LTD.; WORLD LOGISTICS SERVICE (USA) INC.;
CSAV AGENCY NORTH AMERICA, LLC; HÖEGH AUTOLINERS AS;
HÖEGH AUTOLINERS, INC.

Defendants

PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT, 1992, S.O. 1992, c.6*

**ORDER
(Certification for Settlement Purpose and Notice Approval – MOL Settlement)**

THIS MOTION, made by the plaintiffs, for an Order certifying this action as a class proceeding for settlement purposes as against Mitsui O.S.K. Lines, Ltd., Mitsui O.S.K. Bulk Shipping (U.S.A.), Inc., Nissan Motor Car Carrier Co., Ltd., and World Logistics Service (USA) Inc. (“the Settling Defendants”), and approving the notices of certification and settlement approval



hearing (the “Notices”) and the plan of dissemination of said Notices was heard this day at the Court House, 80 Dundas Street, London, Ontario.

ON READING the materials filed, including the settlement agreement dated September 7, 2022 and the addendum to the settlement agreement dated January 17, 2023 (collectively the “Settlement Agreement”) attached to this Order as **Schedule “A”**;

AND ON BEING ADVISED that RicePoint Administration Inc. has consented to being appointed as a notice provider in accordance with the terms of this Order;

AND ON BEING ADVISED that the plaintiffs and the Settling Defendants consent to this Order and the Non-Settling Defendants take no position on this Order;

AND ON HEARING the submissions of the parties:

1. **THIS COURT ORDERS** that for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. **THIS COURT ORDERS** that the Ontario Action is certified as a class proceeding as against the Settling Defendants for settlement purposes only;
3. **THIS COURT ORDERS** that the Ontario Settlement Class is defined as:

All Persons in Canada who purchased Vehicle Carrier Services or purchased or leased a new vehicle transported by RoRo during the Class Period other than (1) all BC Settlement Class members and (2) all Québec Settlement Class members.

Vehicle Carrier Services means paid international ocean shipping services via roll on/roll off vessels of cargo, such as new and used cars and trucks, as well as agricultural construction and mining equipment.

Class Period means February 1, 1997 to December 31, 2012.

4. **THIS COURT ORDERS** that Ryan Todd Wonch and Margaret A. Wonch be appointed as the representative plaintiffs for the Ontario Settlement Class.

5. **THIS COURT ORDERS** that the Ontario Action is certified on the basis that the following issue is common to the Ontario Settlement Class.

Did the Settling Defendants conspire to fix, raise, maintain or stabilize the prices of, or allocate markets and customers for, Vehicle Carrier Services directly or indirectly in Canada during the Class Period? If so, what damages, if any, did Settlement Class Members suffer?

6. **THIS COURT ORDERS** that this Order, including but not limited to the certification of the Ontario Action as against the Settling Defendants for settlement purposes and the definition of the Ontario Settlement Class and the Common Issue, and any reasons given by the Court in connection with this Order, is without prejudice to the rights and defences of the Non-Settling Defendants in connection with the ongoing action and, without restricting the generality of the foregoing, may not be relied upon by any person to establish jurisdiction, the criteria for certification (including class definition), or the existence or elements of the causes of action asserted in the action, as against the Non-Settling Defendants.
7. **THIS COURT ORDERS** that the opt out period provided pursuant to the Order of this Court made on January 19, 2017 satisfies the requirement of section 9 of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 for the purposes of this action, that no further opt out period is necessary, and that the opt out period expired on May 10, 2017.
8. **THIS COURT ORDERS** that the notice of certification and settlement approval hearing, the press release and the banner ad (collectively, the “Notices”) are hereby approved substantially in the form attached collectively hereto as **Schedule “B”**.
9. **THIS COURT ORDERS** that the plan for disseminating the Notices (the “Notice Plan”) is hereby approved substantially in the form attached hereto as **Schedule “C”** and that the Notices shall be disseminated in accordance with the Notice Plan.

10. **THIS COURT ORDERS** that RicePoint Administration Inc. is appointed to disseminate the Notices in accordance with the Notice Plan and the terms of this Order.
11. **THIS COURT ORDERS** that RicePoint Administration Inc's quote to implement the Notice Plan is hereby approved substantially in the form attached as **Schedule "D"** and that the costs of disseminating the Notices, less the costs payable by defendants pursuant to paragraph 15 of the order of Justice Bisson dated June 9, 2023 in the Québec Action, are to be paid from the Settlement Amount.
12. **THIS COURT ORDERS** that if the Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason, including certification for settlement purposes, this Order shall be deemed null and void and of no force and effect, without the need for a further Order of this Court.
13. **THIS COURT ORDERS** that this Order is contingent upon parallel notice approval and certification/authorization orders being made by this Court, the British Columbia Court and the Québec Court and the terms of this Order shall not be effective unless and until such orders are made in the Ontario, British Columbia and Québec actions.
14. **THIS COURT ORDERS** that the date of the hearing of the Settlement Approval Motion shall be set for November 24, 2023.

Date:



The Honourable Madam Justice Leitch