

FLETCHER & SIPPEL ALERT

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CLASS ACTION SUIT ALLEGES CONSPIRACY TO FIX FUEL SURCHARGES

An entity known as Dust Pro, Inc., on behalf of itself and similarly situated entities, has filed a class action lawsuit in the U.S. District Court for the District of New Jersey against CSX, NS, UP, BNSF and KCS, alleging that those defendants conspired to fix fuel surcharges on unregulated and contract rail freight traffic in violation of the Sherman Act.

The named plaintiff alleges that, starting in 2003, the railroads conspired to keep prices for rail freight services artificially high through the use of fuel surcharges. The plaintiff alleges that the railroads illegally agreed to assess fuel surcharges as a percentage of the base rate rather than as a percentage of the actual cost of fuel associated with the moves. The complaint seeks treble damages and attorneys' fees.

The plaintiff alleges a number of items which give rise to an "inference" of price fixing; such as the railroads meeting at AAR meetings, an alleged history of "price fixing and other anti-competitive behavior" reflected in the work of "rate bureaus" and "rate making committees," etc.

Please contact [Michael J. Barron, Jr.](#) at (312) 252-1511 if you would like a copy of the complaint.