

**BEFORE THE JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION**

**IN RE PACIFIC NONCONTIGUOUS
OCEAN SHIPPING ANTITRUST
LITIGATION**

MDL DOCKET NO. _____

**MOTION OF PLAINTIFF TASTE OF NATURE, INC. FOR TRANSFER
AND CONSOLIDATION OF RELATED ACTIONS TO THE NORTHERN
DISTRICT OF CALIFORNIA PURSUANT TO 28 U.S.C. § 1407**

Plaintiff Taste of Nature, Inc, respectfully moves the Judicial Panel on Multidistrict Litigation (the “Panel”), pursuant to 28 U.S.C. § 1407 and Rule 7.2 of the Rules of Procedure for the Judicial Panel on Multidistrict Litigation, for an Order Consolidating and Transferring Related Actions to the United States District Court for the Northern District of California. This Motion is supported by the accompanying Memorandum of Law and Declaration of Joseph W. Cotchett.

1. On May 9, 2008, Plaintiff Taste of Nature, Inc. filed the first complaint in the United States District Court for the Central District of California alleging a conspiracy to fix prices in the market of Ocean Cabotage¹ on routes between the contiguous United States and territories and states in the Pacific Ocean (the “Pacific Trade”) in violation of Section 1 of the Sherman Act. To date there are four other actions pending. Three of these actions are pending in the United States District Court for Northern District of California and one is pending in the United States District Court for the District of Oregon. All of these actions are brought on behalf of all direct purchasers of Ocean Cabotage in the Pacific Trade. Pursuant to Rule 7.2(a)(ii) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, a Schedule of Actions for which consolidation is requested is attached as Exhibit A to the accompanying Declaration of Joseph W. Cotchett (the “Related Actions”).

2. The Related Actions proposed for transfer and consolidation are based on the same operative facts and therefore “involv[e] one or more common questions of fact” as required by 28 U.S.C. § 1407(a). Common questions of fact include: (a) whether the Defendants engaged in a combination and conspiracy among themselves to fix, raise, maintain and/or stabilize prices

¹ “Ocean Cabotage” refers to the transport of goods by sea.

of Ocean Cabotage in the Pacific Trade; (b) the identity of the participants in the Defendants' conspiracy; (c) the duration of the Defendants' conspiracy and the nature and character of the acts performed by Defendants in furtherance of the conspiracy; (d) whether the conduct of the Defendants caused injury to the business or property of the Plaintiffs and the members of the proposed class; (e) the effect of the Defendants' conspiracy on the prices of Ocean Cabotage in the Pacific Trade during the class period; and (f) the appropriate measure of damages sustained by the named Plaintiffs and members of the proposed class. As a consequence, transfer of the Related Actions for consolidation will prevent duplication of discovery, eliminate the possibility of conflicting rulings, and conserve judicial resources.

3. The U.S. District Court for the Northern District of California is the appropriate forum for consolidation of the Related Actions. In choosing a forum, the Panel considers whether a given forum would serve the convenience of the parties and witness and facilitate the just and efficient resolution of the actions. The Northern District of California is the forum that would best serve these purposes.

4. In addition, judicial caseload profiles indicate that the Northern District of California is well suited to manage this complex litigation. It has the resources and personnel necessary for the management of an MDL proceeding.

WHEREFORE, Plaintiff Taste of Nature, Inc. respectfully requests that the MDL Panel

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issue an Order consolidating and transferring the Related Actions and all subsequently-filed Related Actions to the U.S. District Court for the Northern District of California.

Dated: June 5, 2008

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