

ENDORSED  
FILED  
Superior Court of California  
County of San Francisco

AUG 06 2009

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**BY FAX**

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **COUNTY OF SAN FRANCISCO**

14 **JOHN TARANTINO; STEVEN F. FITZ, )**  
dba FITZ-BUSKIRK, INC.; JOHN  
15 **ATKINSON; SEAN M. HODGES;**  
16 **ERNIE KOEPF; SAU A. PHANG; KIU**  
**A. PHANG SIN; and others similarly**  
**situated,**

17 **Plaintiffs,**

18 **v.**

19 **HANJIN SHIPPING CO., LTD.; REGAL**  
**STONE, LTD.; FLEET**  
20 **MANAGEMENT, LTD.; JOHN J.**  
21 **COTA; and DOES 2-100,**

22 **Defendants.**

**CLASS ACTION**

**CASE NO. CGC-07-469379**

**NOTICE OF ENTRY OF ORDER**

**Dept: 305**  
**Judge: John E. Munter**

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on August 6, 2009, the Court issued the attached  
3 Order Granting Plaintiffs' Motion to Determine the Existence of and Certify a Commercial  
4 Herring Fishermen Subclass.

5  
6 Dated: August 6, 2009

**COTCHETT, PITRE & McCARTHY**  
AUDET & PARTNERS, LLP

7  
8 By: 

STUART G. CROSS  
*Counsel for Plaintiffs*

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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO  
DEPARTMENT 305**

<b>JOHN TARANTINO; STEVEN F. FITZ, dba FITZ-BUSKIRK, INC.; JOHN ATKINSON; SEAN M. HODGES; ERNIE KOEPF; SAU A. PHANG; KIU A. PHANG SIN; and others similarly situated,</b>	)	<b>CASE NO. CGC-07-469379</b>
<b>Plaintiffs,</b>	)	<b>ORDER GRANTING PLAINTIFFS' MOTION TO DETERMINE THE EXISTENCE OF AND CERTIFY A COMMERCIAL HERRING FISHERMEN SUBCLASS</b>
<b>vs.</b>	)	
<b>HANJIN SHIPPING CO., LTD.; REGAL STONE, LTD.; FLEET MANAGEMENT, LTD.; JOHN J. COTA; and DOES 2-100,</b>	)	
<b>Defendants.</b>	)	

This matter came on regularly for hearing on August 6, 2009, at 10:30am, with both sides being represented by counsel. Having considered the motion, all other papers filed in connection with the motion, and all other pertinent documents and pleadings filed in this action, the Court hereby makes the following findings, conclusions, and orders:

1 1. Plaintiffs' Motion to Determine the Existence of and Certify a Commercial Herring  
2 Fisherman Subclass is GRANTED. The proposed plaintiff subclass is certified  
3 against all named defendants.

4 2. The following subclass is hereby certified ("Subclass"):

5 All persons that: (a) hold current permits from the California Department of Fish  
6 and Game to commercially fish for Pacific herring (*Clupea pallasii*) in the San  
7 Francisco Bay herring fishery; (b) are current lessees of California Department of  
8 Fish and Game permits entitling them to commercially fish for Pacific herring  
9 (*Clupea pallasii*) in the San Francisco Bay herring fishery and are actively engaged  
10 in commercial fishing for Pacific herring (*Clupea pallasii*) in the San Francisco Bay  
11 herring fishery; or (c) have worked as crew person on a boat engaged in  
12 commercial fishing for Pacific herring (*Clupea pallasii*) in the San Francisco Bay  
13 herring fishery for any two consecutive seasons in the last five seasons, beginning  
14 with the 2004/05 season.

15 3. The Court also approves John Atkinson, Sean M. Hodges, and Ernie Koepf, as  
16 Subclass Representatives.

17 4. The Court approves the following firms as lead Class Counsel: (a) Cotchett, Pitre  
18 & McCarthy, and (b) Audet & Partners, LLP.

19 5. This Court bases this certification order on the following findings, each of which is  
20 amply supported by the papers in support of the motion.

21 (a) Numerosity & Ascertainability: The Subclass is so broad and numerous  
22 that joinder of all members is impracticable. Although its exact number is  
23 unknown, it is estimated that there are more than 300 Subclass members.  
24 The proposed Subclass definition is specific and based on objective  
25 standards such that the Subclass is readily ascertainable.

26 (b) Commonality: The Subclass members' case involves a well-defined  
27 community of interest because the critical questions of law and fact affect  
28 all Subclass members and predominate over any potential individual issues.  
Plaintiffs' claims relate to the same core event and actors, namely the  
conduct of the Defendants and their employees on the day of the spill.

- 1 (c) Typicality: The Court finds that typicality is satisfied here because  
2 Plaintiffs and Subclass members seek the same remedies for similar harms  
3 under the same legal theories. Thus, their claims are typical of those of the  
4 Subclass.
- 5 (d) Adequacy: The Court finds that John Atkinson, Sean M. Hodges, and Ernie  
6 Koepf will fairly and adequately represent the Subclass. It further finds that  
7 the interests of these named Plaintiffs are fully aligned with those of the  
8 Subclass, and that there is no conflict of interest between the named  
9 Plaintiffs and the Subclass. The Court finds that plaintiffs are motivated to  
10 prosecute their claims on behalf of themselves and the Subclass and that  
11 Plaintiffs' chosen counsel is fully capable of effectively prosecuting this  
12 litigation.
- 13 (e) Superiority: The Court further finds that a class action is the superior  
14 method of adjudication in the instant action, in large part because it would  
15 not be feasible for each Subclass member to prosecute the claims advanced  
16 in this action on an individual basis. Even if it were feasible for individual  
17 Subclass members to bring suit, it would be inefficient for the parties and  
18 the courts to re-litigate the numerous common questions in case after case.  
19 This would also risk inconsistent rulings in cases with nearly identical  
20 factual and legal issues. Moreover, the Court is unaware of any other  
21 litigation concerning the controversy at issue herein, and the Court foresees  
22 no manageability problems that would militate against class certification.

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26 7. The Court GRANTS Plaintiffs' request for approval of the Form of Class Notice,  
27 with the form attached hereto as Exhibit A to be used in connection with the  
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mailing of notice and the form attached hereto as Exhibit B to be used in connection with the publication of notice.

8. Subject to the single exception in the following sentence, the Court GRANTS Plaintiffs' request for approval of the Notice Plan, as set forth in the Declaration of Peter L. Crudo dated and filed on April 15, 2009, with the Court finding that the notice procedures set forth in that Notice Plan constitute the best notice practicable under the circumstances and provide notice to Subclass members in accordance with the provisions of the California Code of Civil Procedure, California Rules of Court, and due process. The parties shall engage the services of a third-party administrator to be agreed upon by them no later than August 17, 2009, and if the parties fail to agree then they shall present that issue to the Court.
9. The Subclass members may exclude themselves from this action provided they do so within 75 days of the mailing of the Notice.
10. Plaintiffs and Defendants will split the cost of notice evenly between each side.

IT IS SO ORDERED.

Dated: August 6, 2009

  
\_\_\_\_\_  
John E. Munter  
Judge of the San Francisco Superior Court

# Exhibit A

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO  
DEPARTMENT 305

**JOHN TARANTINO; STEVEN F. FITZ, dba FITZ-BUSKIRK, INC.; JOHN ATKINSON; SEAN M. HODGES; ERNIE KOEPF; SAU A. PHANG; KIU A. PHANG SIN; and others similarly situated,**

**Plaintiffs,**

**vs.**

**HANJIN SHIPPING CO., LTD.; REGAL STONE, LTD.; FLEET MANAGEMENT, LTD.; JOHN J. COTA; and DOES 2-100,**

**Defendants.**

**CLASS ACTION**

**CASE NO. CGC-07-469379**

**NOTICE OF PENDENCY OF CLASS ACTION LAWSUIT**



1 **YOU MAY BE A CLASS MEMBER IN THE ABOVE-ENTITLED LAWSUIT RELATED**  
2 **TO THE NOVEMBER 7, 2007 COSCO BUSAN OIL SPILL,**  
3 **IF YOU EITHER:**

- 4 **A. ARE A HOLDER OF A CURRENT PERMIT FROM THE CALIFORNIA DEPARTMENT OF FISH AND GAME TO COMMERCIALY FISH FOR PACIFIC HERRING (CLUPEA PALLASII) IN THE SAN FRANCISCO BAY HERRING FISHERY; OR**
- 5 **C. HAVE WORKED AS A CREW PERSON ON A BOAT ENGAGED IN COMMERCIAL FISHING FOR PACIFIC HERRING (CLUPEA PALLASII) IN THE SAN FRANCISCO BAY HERRING FISHERY FOR ANY TWO CONSECUTIVE SEASONS IN THE LAST FIVE SEASONS, BEGINNING WITH THE 2004/05 SEASON.**
- 6 **B. ARE A CURRENT LESSEE OF A CALIFORNIA DEPARTMENT OF FISH AND GAME PERMIT ENTITLING YOU TO COMMERCIALY FISH FOR PACIFIC HERRING (CLUPEA PALLASII) IN THE SAN FRANCISCO BAY HERRING FISHERY AND ARE ACTIVELY ENGAGED IN COMMERCIAL FISHING FOR PACIFIC HERRING (CLUPEA PALLASII) IN THE SAN FRANCISCO BAY HERRING FISHERY; OR**

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17 **IF YOU ARE A MEMBER OF THE PLAINTIFF CLASS,**  
18 **YOU SHOULD READ THIS NOTICE**  
19 **BECAUSE IT WILL AFFECT YOUR RIGHTS.**

20 **IMPORTANT NOTE: NEITHER THIS NOTICE NOR THE COURT'S ORDER**  
21 **CERTIFYING A CLASS IS AN EXPRESSION OF ANY OPINION BY THE**  
22 **COURT AS TO THE MERITS OF ANY OF THE CLAIMS OR DEFENSES**  
23 **ASSERTED BY EITHER SIDE IN THIS LAWSUIT. THE PRIMARY PURPOSE**  
24 **OF THIS NOTICE IS TO INFORM YOU OF THE LAWSUIT SO THAT YOU CAN**  
25 **MAKE AN INFORMED DECISION AS TO WHETHER YOU SHOULD REMAIN**  
26 **A MEMBER OF THE CLASS OR EXCLUDE YOURSELF FROM THE CLASS.**

27 **NOTICE IS HEREBY GIVEN THAT:**

28 The class action lawsuit arises out of the November 7, 2007 allision of the M/V Cosco Busan and the resulting spill of approximately 53,000 gallons of bunker fuel in the San Francisco Bay ("Spill"). The suit alleges that Defendants Hanjin Shipping, Co., Regal Stone, Ltd., Fleet Management, Ltd., John Cota, and the Does 2-50 (collectively "Defendants") are responsible for

1 the economic impact that the Spill has had, and may have in the future, on commercial fishermen  
2 operating in the San Francisco Bay and surrounding ocean areas. The action requests  
3 compensatory damages for injuries sustained by commercial fishermen, punitive damages for  
4 Defendants' willful, reckless and wanton conduct, the creation of a fund to monitor contamination  
5 of marine life in the San Francisco Bay and surrounding ocean areas in order to assure the health,  
6 safety and fitness for human consumption of fish caught, as well as attorneys' fees and litigation  
7 costs.

8 The Defendants have denied all liability.

9 On August 6, 2009, the California Superior Court (San Francisco County) certified a  
10 Herring Fishermen Subclass to pursue this action on a class basis.

11 The Subclass is defined as follows:

12 **All persons that: (a) hold current permits from the California Department of Fish  
13 and Game to commercially fish for Pacific herring (*Clupea pallasii*) in the San Francisco Bay  
14 herring fishery; (b) are current lessees of California Department of Fish and Game permits  
15 entitling them to commercially fish for Pacific herring (*Clupea pallasii*) in the San Francisco  
16 Bay herring fishery and are actively engaged in commercial fishing for Pacific herring  
17 (*Clupea pallasii*) in the San Francisco Bay herring fishery; or (c) have worked as crew person  
18 on a boat engaged in commercial fishing for Pacific herring (*Clupea pallasii*) in the San  
19 Francisco Bay herring fishery for any two consecutive seasons in the last five seasons,  
20 beginning with the 2004/05 season.**

21 The San Francisco Bay herring fishery is defined as the waters of California Fish and  
22 Game Districts 11, 12, and 13.

23 If you are a member of the Subclass as defined above, then you are a Subclass member for  
24 purposes of this case. All persons described in the Subclass definition who do not request to be  
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1 excluded from the Subclass in the manner set forth in the next paragraph will be deemed members  
2 of the Subclass, will be represented by Class Representatives and the Class Counsel in this action,  
3 and will be bound by the judgment of the Court in the action, whether favorable or unfavorable to  
4 the Subclass. If you wish to be a member of the Subclass, you need do nothing and your interests  
5 in the lawsuit will be protected and represented by the Subclass Representatives and Class  
6 Counsel. If you wish, you may enter an appearance by counsel of your choice at your own  
7 individual expense; otherwise, you will be represented by Class Counsel.  
8

9 If you do not wish to be included in the case, you must so state in writing including your  
10 name and address, and a clear statement that you do not want wish to be considered a member of  
11 the Subclass and do not wish to be bound by the judgment in the action. You must mail your  
12 written request for exclusion in an envelope postmarked no later than \_\_\_\_\_,  
13 2009, addressed to:

14 **[CLAIMS ADMINISTRATOR]**

15 If you timely request exclusion from the Subclass in the case, (1) you will not share in a  
16 recovery, if any, by the Subclass, through settlement or judgment; (2) you will not be bound by a  
17 judgment against the Subclass; and (3) you will not be precluded from otherwise prosecuting a  
18 timely individual claim.  
19

20 This Notice was mailed to you based on the parties' information as to your name and  
21 address. If this information is incorrect, or if you move in the future, please inform Class Counsel  
22 of your correct name and current address by sending a letter with that information to Class  
23 Counsel at the address stated below.  
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27 ///

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1 It should be understood that the Court in this action does not at present time express any  
2 opinion as to the merits of this action.

3 **THIS IS ONLY A SUMMARY OF THE CLASS ACTION.**  
4 **For Additional Information**  
5 **Contact Class Counsel At The Address Or Numbers Below:**

6 Frank M. Pitre  
7 Stuart G. Gross  
8 **COTCHETT, PITRE & McCARTHY**  
9 San Francisco Airport Office Center  
10 840 Malcolm Road, Suite 200  
11 Burlingame, CA 94010  
12 Telephone: (650) 697-6000  
13 Fax: (659) 697-0577

14 **PLEASE DO NOT TELEPHONE OR ADDRESS ANY INQUIRIES TO THE COURT.**

15 \*\*\*\*\*

16 **ELECTION TO BE EXCLUDED**

17 I, (PRINT NAME) \_\_\_\_\_, hereby elect to be excluded  
18 from the herring subclass in *Tarantino v. Hanjin Shipping Co.* in accordance with the provision of  
19 the Notice of Class Action.

20 \_\_\_\_\_  
21 Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

# Exhibit B

*Koepf, et al. v. Hanjin Shipping, Co., et al., Superior Court of California (San Francisco County),  
Case No. CGC-07-469379*

**IF YOU EITHER:**

- A. ARE A HOLDER OF A CURRENT PERMIT FROM THE CALIFORNIA DEPARTMENT OF FISH AND GAME TO COMMERCIALLY FISH FOR PACIFIC HERRING (*CLUPEA PALLASII*) IN THE SAN FRANCISCO BAY HERRING FISHERY; OR
- B. ARE A CURRENT LESSEE OF A CALIFORNIA DEPARTMENT OF FISH AND GAME PERMIT ENTITLING YOU TO COMMERCIALLY FISH FOR PACIFIC HERRING (*CLUPEA PALLASII*) IN THE SAN FRANCISCO BAY HERRING FISHERY AND ARE ACTIVELY ENGAGED IN COMMERCIAL FISHING FOR PACIFIC HERRING (*CLUPEA PALLASII*) IN THE SAN FRANCISCO BAY HERRING FISHERY; OR
- C. HAVE WORKED AS A CREW PERSON ON A BOAT ENGAGED IN COMMERCIAL FISHING FOR PACIFIC HERRING (*CLUPEA PALLASII*) IN THE SAN FRANCISCO BAY HERRING FISHERY FOR ANY TWO CONSECUTIVE SEASONS IN THE LAST FIVE SEASONS, BEGINNING WITH THE 2004/05 SEASON.

This class action lawsuit arises out of the November 7, 2007 allision of the M/V Cosco Busan and the resulting spill of approximately 53,000 gallons of bunker fuel in the San Francisco Bay ("Spill"). The suit alleges that Defendants Hanjin Shipping, Co., Regal Stone, Ltd., Fleet Management, Ltd., John Cota, and Does 2-50 (collectively "Defendants") are responsible for the economic impact that the Spill has had, and may have in the future, on commercial fishermen operating in the San Francisco Bay and surrounding ocean areas. The action requests compensatory damages sustained by the commercial fishermen, punitive damages for Defendants' willful, reckless and wanton conduct, the creation of a fund to monitor contamination of marine life in the San Francisco Bay and surrounding ocean areas in order to assure the health, safety and fitness for human consumption of fish caught, as well as attorneys' fees and litigation costs. The Defendants have denied all liability.

On August 6, 2009, the Superior Court of California (San Francisco County) certified a Herring Fishermen Subclass ("Subclass") to pursue this action on a class basis. If you are a member of the Subclass as defined above, then you are a Subclass member for

purposes of this case. All persons described in the Subclass definition who do not request to be excluded from the Subclass in the manner set forth in the next paragraph will be deemed members of the Subclass, will be represented by Subclass Representatives and the Class Counsel in this action, and will be bound by the judgment of the Court in the action, whether favorable or unfavorable to the Subclass. If you wish to be a member of the Subclass, you need do nothing and your interests in the lawsuit will be protected and represented by the Subclass Representatives and Class Counsel. If you wish, you may enter an appearance by counsel of your choice at your own individual expense; otherwise, you will be represented by Class Counsel.

If you do not wish to be included in the case, you must so state in writing including your name and address, and a clear statement that you do not wish to be considered a member of the Subclass and do not wish to be bound by the judgment in the action. You must mail your written request for exclusion in an envelope postmarked no later than \_\_\_\_\_, 2009, addressed to:

**[CLAIMS ADMINISTRATOR]**

If you timely request exclusion from the Subclass in this case, (1) you will not share in a recovery, if any, by the Subclass, through settlement or judgment; (2) you will not be bound by a judgment against the Subclass; and (3) you will not be precluded from otherwise prosecuting a timely individual claim.

Further information concerning this action may be obtained by contacting Class Counsel:

Frank M. Pitre  
Stuart G. Gross  
**COTCHETT, PITRE & McCARTHY**  
San Francisco Airport Office Center  
840 Malcolm Road, Suite 200  
Burlingame, CA 94010  
Telephone: (650) 697-6000  
Fax: (659) 697-0577

**Please do not telephone or address inquires to the Court.**

\_\_\_\_\_, 2009.

By Order of the Superior Court of California, County of San Francisco

3 **PROOF OF SERVICE**

4 I am employed in San Mateo County, which is where service of the document(s)  
5 referred to below occurred. I am over the age of 18 and not a party to the within action.  
6 My business address is Cotchett, Pitre & McCarthy, San Francisco Airport Center, 840  
7 Malcolm Road, Suite 200, Burlingame, California 94010. I am readily familiar with  
8 Cotchett, Pitre & McCarthy's practices for the service of documents. On this date, I  
9 served a true copy of the following document(s) in the manner listed below:

10 **NOTICE OF ENTRY OF ORDER**

11 **XX** **BY MAIL:** I am readily familiar with this firm's practice for collection and processing  
12 of correspondence for mailing. Following that practice, I placed a true copy of the  
13 aforementioned document(s) in a sealed envelope, addressed to each addressee,  
14 respectively, as specified below. The envelope was placed in the mail at my business  
15 address, with postage thereon fully prepaid, for deposit with the United States Postal  
16 Service on that same day in the ordinary course of business.

17 **SEE ATTACHED SERVICE LIST**

18 I declare under penalty of perjury, under the laws of the State of California, that the  
19 foregoing is true and correct. Executed at Burlingame, California, on August 6, 2009.

20 

21 \_\_\_\_\_  
22 JoAnne Lein

3 **SERVICE LIST**

4 **VIA FIRST CLASS MAIL**

*Plaintiffs' Co-Counsel*

5 William M. Audet  
6 Adel A. Nadji  
7 **AUDET & PARTNERS, LLP**  
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9 San Francisco, CA 94010  
10 Tel: (415) 568-2555  
11 Fax: (415) 568-2556  
12 waudet@audetlaw.com  
13 ANadji@audetlaw.com

9 **VIA FIRST CLASS MAIL**

*Counsel for Defendants Regal Stone,  
Ltd. and Fleet Management Ltd.*

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13 450 Pacific Avenue  
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16 Fax: (415) 981-0136  
17 john.giffin@kyl.com  
18 john.cox@kyl.com

14 **VIA FIRST CLASS MAIL**

*Counsel for Defendant  
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15 James B. Nebel  
16 Conte C. Cicala  
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18 One California Street, Suite 350  
19 San Francisco, CA 94111  
20 Tel: (415) 693-5566  
21 Fax: (415) 693-0410

19 **VIA FIRST CLASS MAIL**

*Counsel for Defendant  
Hanjin Shipping Co., Ltd.*

20 Erich P. Wise  
21 **FLYNN, DELICH & WISE, LLP.**  
22 One World Trade Center, Suite 1800  
23 Long Beach, CA 90831-1800  
24 Tel: (562) 435-2626  
25 Fax: (562) 437-7555  
26 erichw@fdw-law.com

23 **VIA FIRST CLASS MAIL**

*Counsel for Defendant  
John J. Cota*

24 Walter G. Coppentrath  
25 Phillip S. Dalton  
26 George M. Jones  
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Fax: (562) 252-1136  
waltla@aol.com  
gjones@coppentrathlaw.com