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South Florida yacht brokers hit with lawsuits that claim 10% commissions violate antitrust laws

Ron Hurtibise; South Florida Sun-Sentinel

Two newly filed federal lawsuits claim that 10% sales commissions required by South Florida's yacht broker industry are anticompetitive and violate antitrust laws.

The claims follow an October finding by a federal jury in Kansas City, Missouri, that the National Association of Realtors conspired with brokers to artificially inflate commissions paid to real estate brokers. The ruling, and a March 15 settlement by the Realtors, is expected to radically change how homes are sold in the United States.

Both lawsuits involving yacht brokers name as defendants the International Yacht Brokers Association, based in Fort Lauderdale, the Yacht Brokers Association of America, Boats Group LLC and YATCO LLC.

Also listed as defendants in both suits are a who's who of South Florida-based yacht brokers, including Denison Yacht Sales, MarineMax Inc., Galati Yacht Sales Inc., Allied Marine Inc., Tournament Yacht Sales LLC and Northrop & Johnson Yacht Ships, among others.

Nearly all of the defendants are headquartered in South Florida.

The most recent suit, filed on March 22, proposes a class of plaintiffs that includes anyone who listed vessels on certain Multiple Listing Services using a listing agent or broker affiliated with one of the defendants and paid a buyer's broker commission since March 22, 2020.

The lead plaintiff in the lawsuit is Kip Lamar Snell, identified as an Alabama resident. Snell entered into an agreement with Galati to sell a 41-foot Express Cruiser Sea Ray in July 2020 and ended up paying a \$12,000 commission on the \$120,000 sale price, the suit states. The lawsuit lists as defendants 15 brokers and six organizations that promote the yacht trade or operate Multiple Listing Services.

That lawsuit follows one filed on Feb. 29 that proposes a class of plaintiffs that includes anyone who paid a commission to a listing broker affiliated with the defendants since Feb. 19, 2020. It lists as defendants 11 brokers and five organizations that promote the yacht trade or operate Multiple Listing Services.

The lead plaintiff in that suit is Ya Mon Expeditions, a Wyoming company that paid a "substantial broker commission" when it sold a vessel in January 2023 while represented by Tournament Yacht Sales of Tequesta.

The most recent complaint accuses the trade associations of colluding with brokers to "enforce an anticompetitive restraint that requires (sellers of pre-owned yachts and boats) to pay a brokerage fee to the buyer's broker and a total aggregate commission fee that is inflated as a condition for selling their yachts."

The complaint states the typical commission is 10% and is shared between the seller's broker and the buyer's broker under terms spelled out in Central Listing Agreements provided by the brokers associations, including the International Yacht Brokers Association and the Yacht Brokers Association of America.

Only boat brokers are able to list boats and yachts on such Multiple Listing Services as YachtWorld.com, BoatTrader.com and Boats.com, and the Multiple Listing Services will not accept listings from owners who want to sell their vessels themselves, the lawsuit states.

Yacht owners are "severely disadvantaged" if they do not list their boats for sale on the listing services, while buyers suffer because their brokers are "financially incentivized" to show boats that will earn them standard "and inflated" commission rates of 4% to 5% through co-brokerage transactions, the complaint states.

None of the defendants contacted for this story responded to a request for comment, and no response has been filed yet in either case.

Robert Allen Jr., whose Miami-based law firm Robert Allen Law represents the International Yacht Brokers Association, did not respond to emails or return a phone call.

A woman who answered the phone at the International Yacht Brokers Association said, "We have no comment on that," and hung up after a reporter asked for her name.

Of six brokers contacted for comment about the lawsuits, only Tournament Yacht Sales responded to emails. "No comment," the company's response stated.

Overall commissions have increased faster than the rate of inflation in recent years as the price of larger boats and yachts have increased, according to the lawsuit that lists Snell as lead plaintiff.

The result is that boat owners pay "hundreds of millions of dollars" in inflated commissions each year, the suit alleges.

Both lawsuits allege violations of the Sherman Antitrust Act that are upheld by "brokers who should be competing with one another but, instead, cooperate with each other to the detriment of pre-owned boat sellers."

Some brokerages represent both buyers and sellers and retain the entire 10% commissions, the suits state.

The trade associations enforce rules requiring brokers to offer their boats through a listing service and to share commissions, the suits state, adding that they can impose significant penalties on members who do not comply with their rules.

Yacht purchasers are disadvantaged by the current system, the lawsuit alleges, because their agents would otherwise negotiate for their business by decreasing their commission rates.

But buyer brokers' commissions have remained constant despite their diminishing role, the suits state. Many buyers today find boats they are interested in purchasing through online searches and enlist the services of a buyer's broker only after identifying the yacht they want to buy, the suits claim.

The lawsuits seek an order declaring the commission structure to be illegal, a permanent injunction outlawing what they describe as anticompetitive conduct, plus damages and/or restitution, pre- and post-judgment interest, and attorneys' fees.

Paul Geller, an attorney for one of two law firms representing the class that includes Snell, acknowledged "parallels between the allegations relating to commissions in the real estate and yacht markets."

In the real estate matter, the National Association of Realtors on March 15 agreed to a \$418 million proposed settlement that would free home sellers from paying commissions to brokers for both sellers and buyers.

After a jury ruled for the plaintiffs in the case against the National Association of Realtors in October, numerous lawsuits were filed across the country with similar allegations, including one in December against the Florida Association of Realtors and 16 brokerages.

"At bottom, the goals of (the suit against the yacht brokers) are similar: protecting consumers by challenging what we allege to be anti-competitive conduct," Geller said by email. "We believe in the universal truth that consumers benefit by increased transparency and the competitive pricing that results from negotiated terms, including commissions."

Geller is a partner at Robbins Geller Rudman & Dowd LLP, which specializes in securities litigation on behalf of investors. The firm has offices in 10 cities, including Boca Raton.

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---- **Index References** ----

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