

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:20-CV-00141

NORTH CAROLINA COASTAL FISHERIES)
REFORM GROUP, JOSEPH WILLIAM)
ALBEA, DAVID ANTHONY SAMMONS,)
CAPTAIN SETH VERNON, CAPTAIN)
RICHARD ANDREWS, and DWAYNE)
BEVELL,)

Plaintiffs,)

v.)

CAPT. GASTON LLC; ESTHER JOY,)
INC., HOBO SEAFOOD, INC.; LADY)
SAMAIRA, INC.; TRAWLER CAPT.)
ALFRED, INC.; TRAWLER CHRISTINA)
ANN, INC.; TRAWLERS GARLAND)
and JEFF, INC.; and NORTH CAROLINA)
DEPARTMENT OF ENVIRONMENTAL)
QUALITY, DIVISION OF MARINE)
FISHERIES,)

Defendants.)

COMPLAINT

NOW COME Plaintiffs North Carolina Coastal Fisheries Reform Group, Joseph William Albea, David Anthony Sammons, Captain Seth Vernon, Captain Richard Andrews, and Dwayne Bevell (“Plaintiffs”), by and through undersigned counsel and upon information and belief, and allege and say the following:

INTRODUCTION

Plaintiffs live, work, and recreate in and around North Carolina’s coastal waters and depend on North Carolina’s fisheries. They actively advocate for improved fisheries practices in

North Carolina to ensure the long-term health of its fisheries and to mitigate if not undo the damage already caused by commercial shrimp trawling operations. Defendants operate large commercial shrimp trawling operations in North Carolina's coastal waters or are responsible for regulating those operations pursuant to federal and state laws. Each defendant independently and significantly has harmed North Carolina's coastal waters by using non-selective, destructive trawling equipment to harvest shrimp, or by allowing such shrimp trawling practices to continue despite federal and state laws prohibiting such activities. Plaintiffs bring this suit against the Defendants because their actions have violated the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq., and the Plaintiffs' rights under North Carolina's Public Trust Doctrine as enshrined in the Constitution, General Statutes, and common law of the State of North Carolina.

JURISDICTION AND VENUE

1. This action is brought pursuant to the Federal Water Pollution Control Act of 1972 ("Clean Water Act" or "Act"), 33 U.S.C. §§ 1251 et seq., for actions committed by the Defendants which have violated the Act's prohibition on discharging pollutants to and dredging in navigable waters without a permit. This Court has original jurisdiction over the Plaintiffs' federal claims pursuant to 28 U.S.C. § 1331.

2. This case also arises under the Constitution, General Statutes, and common law of the State of North Carolina. This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367.

3. All material events giving rise to this cause of action occurred in and along North Carolina coastal waters, including the Pamlico Sound, in Raleigh, North Carolina, and in Morehead City, North Carolina. Upon information and belief, all Defendants maintain offices

and conduct business in one or more of these locations. Venue is proper in the United States District Court for the Eastern District of North Carolina per 28 U.S.C. § 1391(b).

4. This court has authority to enter declaratory and injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure; 28 U.S.C. §§ 2201 and 2202; 33 U.S.C. §§ 1251 et seq. and North Carolina's Public Trust Doctrine as enshrined in the Constitution, General Statutes, and common law of the State of North Carolina.

5. This court also has authority to impose civil penalties of up to \$25,000.00 per day on a party that has violated the Clean Water Act pursuant to 33 U.S.C. §§ 1319(d) and 1365.

PARTIES

6. Plaintiff North Carolina Coastal Fisheries Reform Group ("NCCFRG") is a nonprofit membership organization dedicated to protecting North Carolina's coastal and marine public trust resources through education, advocacy, and action. NCCFRG promotes sustainable fisheries practices that will accommodate the public's use of these resources without compromising the long-term health of the state's coastal and marine environments and economies. NCCFRG works with coastal and marine stakeholders, the State of North Carolina, and the public to restore our fisheries for current and future generations.

7. NCCFRG has dedicated substantial resources to researching current shrimp trawling practices in North Carolina coastal waters¹, and to engaging with government agencies and stakeholders to address current shrimp trawling practices' detrimental long-term environmental and economic impacts on North Carolina's fisheries.

¹ The term "North Carolina coastal waters" refers to inshore waters, such as Pamlico Sound, as well as those ocean waters up to three nautical miles from the shore, all of which are subject to North Carolina's jurisdiction pursuant to relevant state and federal laws. North Carolina coastal waters include coastal fishing waters, as defined by N.C. Gen. Stat. § 113-129(4).

8. NCCFRG's membership includes small business owners and recreational fishermen who rely on the State's fisheries for their livelihoods and recreation.

9. Plaintiff Joseph William Albea is a founding member of NCCFRG and an avid recreational fisherman who regularly fishes and recreates in the Pamlico Sound and other North Carolina coastal waters. Mr. Albea has long advocated to protect the State's recreational fishing resources and to promote sustainable commercial fishing practices.

10. Plaintiff David Anthony Sammons is a founding member of NCCFRG and an avid recreational fisherman who regularly fishes and recreates in North Carolina coastal waters. Mr. Sammons advocates to protect the State's recreational fishing resources and to promote sustainable commercial fishing practices.

11. Plaintiff Captain Seth Vernon is a professional fishing guide whose livelihood depends upon the health and quality of North Carolina's fisheries. Plaintiff Vernon also fishes and recreates in North Carolina coastal waters.

12. Plaintiff Captain Richard Andrews is a professional fishing guide whose livelihood depends upon the health and quality of North Carolina's fisheries. Plaintiff Andrews also fishes and recreates in North Carolina coastal waters.

13. Plaintiff Dwayne Bevell is a tackle shop owner whose livelihood depends upon the health and quality of North Carolina's fisheries. The majority of Plaintiff Bevell's business comes from recreational fishermen and tourists. Plaintiff Bevell also fishes and recreates in North Carolina coastal waters.

14. Defendant Capt. Gaston LLC is the owner and operator of the shrimp trawling vessel the Micah Bell. Capt. Gaston LLC is a North Carolina corporation, with a local office and corporate headquarters located in New Bern, North Carolina.

15. The Micah Bell typically is docked in Beaufort, North Carolina, and operates in North Carolina coastal waters, including the Pamlico Sound.

16. Defendant Esther Joy, Inc. is the owner and operator of the shrimp trawling vessel the Bridgot Denise. Esther Joy, Inc. is a North Carolina registered corporation, with a local office located in Wanchese, North Carolina, and corporate headquarters located in Suffolk, Virginia.

17. The Bridgot Denise is docked in Wanchese, North Carolina, and operates in North Carolina coastal waters, including the Pamlico Sound.

18. Defendants Hobo Seafood, Inc. and Trawlers Garland and Jeff, Inc. are North Carolina corporations owned by Lee Bland Williams and operate or have operated the shrimp trawling vessel Blackbeard.

19. Hobo Seafood, Inc. is a North Carolina corporation with a local office and corporate headquarters located in Swan Quarter, North Carolina.

20. Trawlers Garland and Jeff, Inc. is a North Carolina corporation with a local office and corporate headquarters in Scranton, North Carolina.

21. Blackbeard is docked in Swan Quarter, North Carolina, and operates in North Carolina coastal waters, including the Pamlico Sound.

22. Defendant Lady Samaira, Inc. is the owner and operator of the shrimp trawling vessel the Lady Samaira. Lady Samaira, Inc. is a North Carolina corporation with a local office and corporate headquarters located in Swan Quarter, North Carolina.

23. The Lady Samaira is docked in Swan Quarter, North Carolina, and operates in North Carolina coastal waters, including the Pamlico Sound.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.