

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

HEYWARD ALLEN MOTOR COMPANY, INC.,
J. SWANTON IVY, INC.,
TRUSSELL FORD, INC.,
DAVIDSON PONTIAC-BUICK, INC.,
CLARKE COUNTY MOTORS, INC.,
SILVEY MOTOR COMPANY, INC.,
PHILLIPS BODY AND PAINT SHOP, INC.,
PATTON BROTHERS, INC.,
CARNEY'S BODY & PAINT SHOP, INC.,
ATHENS AUTOMOBILE DEALERS ASSOCIATION,
and INDEPENDENT GARAGE OWNERS OF ATHENS,
Defendants.

Civil No. 771

Filed: April 8, 1971

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action against the above-named defendants, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted under Section 4 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 4), commonly known as the Sherman Act, in order to prevent and restrain the continuing violation by the defendants, as hereinafter alleged, of Section 1 of said Act (15 U.S.C. § 1).

2. Each defendant is located in, transacts business and is found within the Middle District of Georgia.

II

DEFINITIONS

3. As used herein:

(a) "Automobile repairs" means the application of parts and labor to damaged automobiles for the purpose of repairing them.

(b) "Repair shop" means any person engaged in performing automobile repairs.

(c) "Parts" means new and used automobile parts utilized in repairing damaged automobiles.

III

THE DEFENDANTS

4. The Independent Garage Owners of Athens, hereinafter referred to as the "IGO", is hereby made a defendant herein. The IGO is an unincorporated association located in the City of Athens, Clarke County, Georgia. Its active membership includes persons engaged in performing automobile repairs in Clarke County, Georgia. Total annual sales of automobile repairs by members of the IGO are estimated to be in excess of \$540,000:

5. The Athens Automobile Dealers Association, hereinafter referred to as the "AADA", is hereby made a defendant herein. The AADA is an unincorporated association located in the City of Athens, Clarke County, Georgia. Its active membership includes persons engaged in the business of selling new automobiles and trucks in Clarke County, Georgia. In addition to selling new cars and trucks, most of these persons are also engaged in performing automobile repairs. Total annual sales of automobile

repairs by the members of the AADA are estimated to be in excess of \$400,000.

6. The corporations named below are hereby made defendants herein. Each of these corporations is organized and exists under the laws of the State of Georgia and has its principal place of business in Clarke County, Georgia. Each of these corporations is a member of one or both of the defendant associations. Within the period of time covered by this complaint, each of these corporations has been engaged in performing automobile repairs:

<u>Name of Corporation</u>	<u>Association Membership</u>
Heyward Allen Motor Company, Inc.	AADA
J. Swanton Ivy, Inc.	AADA
Trussell Ford, Inc.	AADA
Davidson Pontiac-Buick, Inc.	AADA
Clarke County Motors, Inc.	AADA
Silvey Motor Company, Inc.	AADA
Phillips Body and Paint Shop, Inc.	AADA; IGO
Patton Brothers, Inc.	IGO
Carney's Body & Paint Shop, Inc.	IGO

IV

CO-CONSPIRATORS

7. Various persons not made defendants in this complaint participated as co-conspirators in the offense hereinafter alleged and have performed acts and made statements in furtherance of said offense.

TRADE AND COMMERCE

8. Nearly all of the parts used by repair shops in Clarke County, including the members of the IGO and AADA, in performing automobile repairs are manufactured or originate outside the State of Georgia.

9. New parts are usually ordered by members of the IGO from new car dealers in Clarke County on a job-by-job basis. Also, new car dealers in Clarke County, including members of the AADA, order new parts from other new car dealers when automobile repairs they perform require parts which they do not stock. Almost all the parts stocked by new car dealers in Clarke County are manufactured in states other than the State of Georgia. In addition, these dealers often do not maintain complete inventories of parts for all years and models of cars; therefore they must and do place special orders with manufacturers' factories, warehouses and assembly plants in order to fill the prior orders of the repair shops. Almost all of the parts ordered from these factories, warehouses and assembly plants are shipped to the State of Georgia from manufacturing facilities located outside the State of Georgia. There is, and has been during the period covered by this complaint, a regular, continuous, and substantial flow in interstate commerce of new parts from suppliers located outside the State of Georgia through the conduits of the members of the IGO and AADA.

10. Used parts are normally ordered by members of the IGO and AADA from local used parts dealers on a

job-by-job basis. When these dealers are unable to supply a used part from local sources, they frequently arrange for its purchase from used parts dealers located outside the State of Georgia. Used parts purchased in this manner are shipped from out-of-state points to the State of Georgia. There is, and has been during the period covered by this complaint, a regular, continuous, and substantial flow in interstate commerce of used parts from suppliers located outside the State of Georgia through the conduits of the members of IGO and AADA.

VI

OFFENSE ALLEGED

11. Beginning at least as early as 1968, the exact date being to the plaintiff unknown, and continuing to the date of the filing of this complaint, the defendants and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in violation of Section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 1), commonly known as the Sherman Act. Such violation is continuing and will continue unless the relief hereinafter prayed for is granted.

12. The aforesaid combination and conspiracy has consisted of a continuing agreement, understanding and concert of action among the defendants and co-conspirators, the substantial terms of which have been and are:

- (a) To establish and maintain a schedule of fees to be charged for estimating automobile repairs;

- (b) To fix, raise and maintain rates charged for labor performed by repair shops; and
- (c) To eliminate discounts on parts prices previously granted on automobile repairs covered by automobile casualty insurance.

13. In furtherance of the aforesaid combination and conspiracy, the defendants and co-conspirators have, among other things, done those things which they combined and conspired to do.

VII

EFFECTS

14. The offense hereinbefore alleged has had the following effects, among others:

- (a) Competition between and among the defendant corporations in performing automobile repairs has been restrained;
- (b) Fees to be charged for estimating automobile repairs have been established and maintained at non-competitive and artificial levels;
- (c) Prices of automobile repairs have been fixed, raised and maintained at non-competitive and artificial levels; and
- (d) Owners of damaged automobiles and their insurers have been deprived of the opportunity to obtain automobile repairs at competitive prices.

PRAYER

WHEREFORE, the plaintiff prays:

1. That the aforesaid combination and conspiracy,

and the aforesaid agreement, understanding and concert of action between and among the several defendants in restraint of the hereinbefore described interstate trade and commerce be adjudged and decreed to be unlawful and in violation of Section 1 of the Sherman Act.


2. That the defendants, their officers, directors, agents and employees, and all persons acting or claiming to act on their behalf, be perpetually enjoined from continuing, reviving or renewing the aforesaid illegal combination and conspiracy and the aforesaid agreement, understanding and concert of action, and from engaging in practices having the purpose or effect of continuing, reviving or renewing any similar violation of the Sherman Act.

3. That the plaintiff have such other and further relief as the nature of the case may require and the Court may deem just and proper.

4. That the plaintiff recover its taxable costs.



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