

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
GENERAL JURISDICTION

CASE NO:

DM Yachts

vs.

Denison Yacht Sales Inc., a Florida Corporation

Defendants.

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COMPLAINT

GENERAL ALLEGATIONS

1. This is an action for breach of contract, quantum meruit, and unjust enrichment against Defendant Denison Yacht Sales Inc., based on its failure to compensate DM Yachts for the brokerage services provided in connection with the marketing and sale of the M/Y INVADER , a 1999 Codecasa 164ft. yacht.

2. This action seeks damages in excess of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs.

3. Plaintiff DM Yachts is a business entity formed and operated under the laws of Greece which is engaged in the yacht brokerage business on an international basis. Dimitris Molfesis is the owner and principal of DM Yachts and at all times was acting in his capacity as employee or agent for DM Yachts

4. Defendant, Denison Yacht Sales Inc., (“Denison”), is a Florida corporation and the yacht brokerage firm that markets Vessels for sale on behalf of Sellers on an exclusive basis and/or on a non-exclusive “open” listing basis.

5. Upon information and belief Non-Party Robert Denison is employed as a licensed yacht broker and/or salesman by Denison. At all times relevant hereto, Robert Denison acted as agent of Denison

6. This Court's subject matter jurisdiction over the instant suit is proper pursuant to 28 U.S.C.S. §1332, as this case involves an action against a citizen of the State of Florida by foreign citizens and an amount in controversy in excess of seventy-five thousand United States Dollars (USD \$75,000.00), exclusive of interest and costs.

7. Venue is proper in the United States District Court for the Southern District of Florida pursuant to 28 U.S.C.S. §1391 because a substantial part of the events or omissions giving rise to this claim occurred in Broward County, Florida.

RELEVANT FACTS

8. In September and October 2017, Denison listed and offered to the public for sale on either an exclusive or non-exclusive open listing basis the M/Y INVADER, a 1999 Codecasa 164ft. yacht (hereinafter the "yacht" or the "vessel").

9. Denison was the central listing broker for the vessel and entitled to a commission for the sale of the vessel.

10. Denison held itself out as willing to co-broker the sale of the vessel with other brokers if they procured an interested buyer.

11. On October 1, 2017 Plaintiff contacted Ken Denison requesting a brochure for the vessel to provide to a client of DM Yachts who was interested in purchasing yachts of the size and type of the M/Y Invader.

12. On October 2, 2017 Ken Denison acknowledged the inquiry and forwarded information regarding the vessel to Dmitiris Molfesis in response to the inquiry.

13. Following the receipt of the communication and information from Denison, Plaintiff contacted Ken Denison by phone to discuss the vessel and DM's client.

14. On October 5, 2017 Dimitris Molfesis wrote to Ken Denison identifying Mr. Giannis Iosifidis as the client to whom DM Yachts had offered the Invader as a possible acquisition.

15. On October 6, 2017 Mr. Iosifidis was provided the e-brochure and specifications for the vessel by Alekos Sidiropoulos, an affiliate of DM Yachts.

16. One month after being advised of the identity of DM Yachts interested client, Denison entered into direct negotiations with the client designed to cut DM Yachts out of the transaction.

17. Denison did not advise DM Yachts that it was communicating with its client directly or that the sale was negotiated and consummated with the client that DM Yachts had introduced to the vessel.

18. In January 2018, Denison announced the in house sale of the yacht by Ken Denison. The vessel was sold to Giannis Iosifidis, the client to whom DM Yachts had introduced the vessel.

19. Denison acknowledged that it did not start to work with Mr. Iosifidis regarding the purchase of the yacht until a month after DM Yachts had provided the information to Iosifidis and after DM Yachts had identified the name of the potential client to Denison.

20. Upon being provided additional details as to when and how DM Yachts had provided the materials and information regarding the yacht to Mr. Iosifidis, Denison inquired whether DM Yachts was expecting a commission from the sale as the procuring broker.

21. Upon receipt of acknowledgement that DM Yachts was looking to Denison for a commission on the sale of the yacht as the procuring broker, Denison ceased communication

with DM as to the yacht and has failed and refused to pay the commission due DM Yachts as procuring broker.

BREACH OF CONTRACT

22. This is an action for breach of contract to co-broker the sale of the M/Y INVADER and to recover the reasonable value of the services in connection with DM Yachts efforts to effectuate the sale of the M/Y INVADER. Plaintiff repeats and realleges the general allegations and relevant facts contained in paragraphs 1-21 with full force and effect as if specifically set forth herein.

23. In October 2017 DM Yachts and Denison entered into a contract implied by law and consistent with the custom and practices of the marine brokerage community under which DM and Denison would act as co-brokers for the sale of the M/Y INVADER.

24. Specifically DM Yachts and Denison entered into a co-brokerage agreement under which DM Yachts would introduce client to the Yacht in exchange for a share of the sales commission should one of DM Yachts clients ultimately purchase the vessel.

25. In furtherance of this agreement, Denison provided to DM Yachts “broker friendly specs and pics along with our latest video” of the vessel, the “latest walk through video of Ken’s central listing ‘Invader’ and an e-brochure of the vessel.

26. DM Yachts entered into this agreement with Denison with the understanding that DM Yachts would receive a commission on the sale of the vessel if sold to a client that it introduced to the vessel. A 60/40 split of the brokerage commission for the sale yacht with 60 % being paid to the procuring broker is the prevailing industry standard.

27. DM Yachts engaged in efforts to interest and secure a buyer for the M/Y INVADER held for sale by Denison including introducing Iosifidis to the vessel and providing Iosifidis with information regarding the vessel.

28. After offering the vessel to the client, DM Yachts registered the client with Denison by providing Denison with the name of the interested client and confirmed they had introduced him to the vessel and provided data to him regarding the vessel.

29. DM Yachts fully performed its duties under the co-brokerage agreement as a procuring broker for the sale of the vessel to Iosifidis.

30. Upon information and belief the vessel was sold for the listed price of \$12,500,000.00

31. The client which DM Yachts introduced to the vessel ultimately purchased the vessel from Denison in January 2018.

32. Notwithstanding that DM Yachts procured the ultimate buyer and advised Denison that it had done so, Denison has failed to pay DM Yachts its rightful share of the commission due under the co-brokerage agreement.

33. DM Yachts has been damaged by Denison's breach of the co-brokerage agreement and is entitled to 60% of the sales commission from the sale of the M/Y INVADER as the procuring broker.

WHEREFORE, Plaintiff, DM Yachts., demands judgment against Defendant, Denison, for damages, together with prejudgment interest, costs of this action, and for such further relief as this Court deems just and proper.

QUANTUM MERUIT

(Plead in the alternative pursuant to Rule 8(d)(2) of the Federal Rules of Civil Procedure)

34. This is an action for quantum meruit to recover the reasonable value of the services in connection with DM Yachts efforts to effectuate the sale of the M/Y INVADER. Plaintiff repeats and realleges the general allegations and relevant facts contained in paragraphs 1-21 with full force and effect as if specifically set forth herein.

35. DM Yachts engaged in efforts to interest and secure a buyer for the M/Y INVADER held for sale by Denison including introducing Iosifidis to the vessel and providing Iosifidis with information regarding the vessel.

36. In doing so, DM Yachts provided co-brokerage services to Denison which were accepted and received by Denison when the sale to Iosifidis was consummated.

37. Upon information and belief the vessel was sold for the listed price of \$12,500,000.00

38. Denison knew DM Yachts provided these services and understood that DM Yachts was performing the services in expectation of receiving a 60/ 40 split of the brokerage commission paid to Denison. A 60/ 40 split of the brokerage commission for the sale yacht with 60 % being paid to the procuring broker is the prevailing industry standard.

39. Under ordinary circumstances, a reasonable yacht broker would reasonably expect to pay for such the benefit conferred by DM Yachts in locating and introducing the ultimate purchaser to the vessel.

40. Denison failed to pay for the benefit he received from DM Yachts.

41. The reasonable value of the services provided to Denison by DM Yachts is \$750,000.00 which represents the industry standard 60/40 split of the 10% commission of the gross sales price of the M/Y INVADER.

WHEREFORE, Plaintiff, DM Yachts., demands judgment against Defendant, Denison, for damages, together with prejudgment interest, costs of this action, and for such further relief as this Court deems just and proper.

UNJUST ENRICHMENT

(Plead in the alternative pursuant to Rule 8(d)(2) of the Federal Rules of Civil Procedure)

42. This is an action for unjust enrichment to recover the reasonable value of the services in connection with DM Yachts efforts to effectuate the sale of the M/Y INVADER. Plaintiff repeats and realleges the general allegations and relevant facts contained in paragraphs 1-21 with full force and effect as if specifically set forth herein.

43. DM Yachts has a claim for unjust enrichment to recover the value of the brokerage services provided to Denison which benefited Defendant by introducing the ultimate buyer Iosifidis to the vessel.

44. DM Yachts conferred a benefit to Defendant by locating the ultimate buyer of the vessel and interesting that buyer in the vessel thereby causing Defendant to receive a commission from the sale for which he was the central listing broker.

45. DM Yachts marketing efforts through Dimitris Molfesis and Alekos Sidiropoulos including providing the ultimate purchaser with the vessel information regarding the vessel including the e-brochure and specifications for the vessel were the procuring cause of the sale of the vessel.

46. Defendant knew that the ultimate buyer, Iosifidis, learned of the vessel from DM Yachts through Dimitris Molfesis and Alekos Sidiropoulos and that DM Yachts had cultivated the buyers interest in the vessel.

47. Defendant ultimately entered into direct negotiations with and sold the vessel to Iosifidis, deliberately excluding DM Yachts from the negotiations notwithstanding that DM Yachts had provided Denison with the buyer's identification and their efforts to market the vessel to him months earlier.

48. Defendant ultimately sold the vessel to Iosifidis and benefited from the sale by receipt of a commission.

49. The circumstances of these events are such that it would be inequitable for Defendant to retain the benefits of DM Yachts brokerage services without paying DM Yachts the fair value of those services.

50. The reasonable value of the services DM Yachts provided to Defendant is the yachting industry standard commission split of 60% of the gross commission received by Denison. Upon information and belief Denison received 10% of the listing price of 12,500,000 thus entitling D M Yachts to \$750,000.00

WHEREFORE, Plaintiff, DM Yachts., demands judgment against Defendant, Denison, for damages, together with prejudgment interest, costs of this action, and for such further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of any and all issues triable of right by a jury.

Respectfully submitted,

S/ Darlene M. Lidondici

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