

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

KŌLOA RUM COMPANY,
3-2087 Kaunualii Highway
Lihue, HI 96766,

Plaintiff,

v.

KRISTI NOEM, in her official capacity
as Secretary of Homeland Security,
2707 Martin Luther King Jr Ave SE
Washington, DC 20528-0525; and
PETE R. FLORES, in his official
capacity as Acting Commissioner of
U.S. Customs and Border Protection,
1300 Pennsylvania Avenue, Suite 4.4-B,
Washington, DC 20229,

Defendants.

Civil Action No. 1:25-cv-554

COMPLAINT

INTRODUCTION

1. Bob Gunter embodies the American Dream. A South Carolinian by birth, Bob came to Hawai'i while serving in the military. He subsequently worked in Hawai'i's sugar industry which enabled him to support a family. The Gunters split the ensuing years between Kaua'i and Maui when Bob was introduced to the distilling business. This awakened his entrepreneurial spirit and reinforced everything he loved about Hawai'i.

2. In early 2008, Bob accepted an opportunity to join with a local group of investors to build a rum distillery on Kaua'i. Starting a distillery from scratch is no easy task, but, in 2009, with determination and hard work, Kōloa Rum Company was born.

3. For nearly two decades, Kōloa Rum Company has bottled the spirit of Hawai‘i, crafting world-class premium rum in the very same region where farmers operated Hawai‘i’s first successful commercial sugar plantation in the 1800s. From locally sourced ingredients, like the pristine rainwater from Mount Wai‘ale‘ale, to its location on the Garden Island, Kōloa Rum Company captures the Aloha Spirit in all it produces.

4. Kōloa Rum Company is the type of business that shows the world what America is about. An individual was able to pursue a dream 5,000 miles from where he grew up—but still in America. He had an entrepreneurial vision, and his hard work made it—and continues to make it—real. Kōloa Rum Company is precisely the type of business our laws should be supporting.

5. But Kōloa Rum Company’s ability to share its unique, award-winning spirits with Americans living in the mainland United States is crippled by an obsolete, protectionist law that artificially inflates Kōloa Rum Company’s costs and places an unjustified and unconstitutional burden on its imports and exports.

6. The Merchant Marine Act of 1920 (colloquially known as the “Jones Act”) is a century-old shipping law that strangles Hawai‘i’s economy by forbidding businesses like Kōloa Rum Company from using more efficient, affordable shipping options.

7. The Jones Act accomplishes its protectionist goals by discriminating against the ports of Hawai‘i. Indeed, the purpose of Jones Act—which was adopted

before Hawai‘i was a state—was always, in part, to force Hawai‘i (and Alaska) into subsidizing the American shipping industry.

8. For all its failures at sustaining American shipbuilding, the Jones Act remains successful at forcing Hawaiians to subsidize a floundering shipping industry. This discriminatory purpose of the Jones Act leads to obvious and palpable discriminatory effects. The transportation of goods to and from Hawai‘i are vastly more expensive than they are for businesses in other states.

9. Because of the Jones Act’s discrimination against the ports of Hawai‘i, Kōloa Rum Company faces sky-high import and export costs. This counterproductive and protectionist law places this quintessentially American company at a severe disadvantage among other American companies. Worse, it gives non-American companies a significant advantage in competing for American business.

10. Seeking a level playing field, Kōloa Rum Company challenges the enforcement of the Jones Act, which unlawfully discriminates against the ports of Hawai‘i, violating the Port Preference Clause of the U.S. Constitution, Article I, Section 9, Clause 6.

JURISDICTION AND VENUE

11. This action arises under the U.S. Constitution, Article I, Section 9, Clause 6 (Port Preference Clause) and is brought pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and 28 U.S.C. §§ 2201–2202 (Declaratory Judgment Act).

12. Venue is proper in this Court under 28 U.S.C. § 1391(e) because the Defendants, acting in their official capacities, reside in this district and a substantial part of the events giving rise to the claims occurred in this district.

PARTIES

Plaintiff

13. Kōloa Rum Company is a producer and seller of rum operating in Hawai'i. It relies on maritime transportation to import and export goods to and from the mainland United States. Kōloa Rum Company ships its spirits to 36 mainland states and several foreign countries. Even for its international sales, Kōloa Rum Company must first ship goods to the mainland United States due to a lack of international routes passing through Hawai'i ports.

Defendants

14. Defendants are federal officials responsible for enforcing the Jones Act.

15. Kristi Noem, the Secretary of Homeland Security, is responsible for overseeing U.S. Customs and Border Protection (CBP) and the U.S. Coast Guard, both of which enforce the Jones Act.

16. Pete R. Flores, the Acting Commissioner of U.S. Customs and Border Protection, is responsible for enforcing the Jones Act's restrictions on coastwise trade.

17. Each Defendant is sued in their official capacity for prospective declaratory and injunctive relief. Plaintiff does not seek compensatory damages.

FACTUAL ALLEGATIONS

The Jones Act

18. Section 27 of the Merchant Marine Act of 1920 is known colloquially as the "Jones Act." 46 U.S.C. §§ 55102, 55116, 55119.

19. The Jones Act requires that any transport between United States ports must be undertaken by vessels that are owned, built, and crewed by U.S. citizens. 46 U.S.C. § 55102(b).

Purpose of the Jones Act

20. Wesley Jones, who became the Senior Senator from the State of Washington and the namesake of the Jones Act, was singularly focused on enacting cabotage restrictions that would benefit the Washington shipbuilding industry.

21. As a congressman in 1900, he already proposed bills that expressly sought to restrict Hawaiian shipping. *See* Sam Heavenrich, *The Neglected Port Preference Clause and the Jones Act*, 132 Yale L.J. 559, 596 (2022).

22. In the ensuing years, as both congressman and senator, Jones proposed many bills that sought to force Alaska and Hawai'i into using American shipping. *Id.*

23. The legislative history of the Jones Act is replete with testimony from shipping companies that sought to protect their interests at the expense of Hawaiians and Alaskans. *See id.* (and accompanying notes).

24. The Governor of Hawai'i, Charles J. McCarthy, testified that the Jones Act would “penalize[]” the port of Hawai'i. *Id.* at 599.

25. Prince Kalaniana'ole himself was nearly unable to attend the hearings because there was no available ship to transport him “despite searching for available spots months in advance.” *Id.*

26. The Jones Act was ultimately enacted in 1920 with the stated goals of ensuring the United States had a strong and self-sufficient maritime industry, protecting national security interests by maintaining a fleet available for military use

in times of war, and supporting American shipbuilding and maritime labor by restricting coastwise trade to U.S.-built, U.S.-owned, and U.S.-crewed vessels.

27. But this express purpose is inextricably linked to its discriminatory purpose. Indeed, as one Senator put it, building up domestic shipbuilding meant “break[ing] down the coastwise-trade laws between Hawai‘i and the mainland.” *Id.* at 601.

The Discriminatory Nationwide Effect of the Jones Act

28. Today, the Jones Act is nearly exclusively applied only to the ports of Hawai‘i, Alaska, and Puerto Rico.

29. Businesses in Hawai‘i, Alaska, and Puerto Rico have no alternative but to use Jones Act-compliant ships for exporting and importing. The ports of every other state have many alternatives.

30. The Jones Act has failed in its textual purpose of supporting a domestic shipbuilding industry. It has had the opposite effect.

31. The Jones Act has resulted in a severely diminished domestic shipbuilding industry, drastically higher shipping costs, and a monopoly for a small number of U.S. shipping companies that dominate trade with Hawai‘i, Alaska, and Puerto Rico.

32. Over the past century, the Jones Act has failed to accomplish its goals and has instead caused severe economic harm to American consumers and businesses, particularly in noncontiguous states and territories such as Hawai‘i.

33. The Jones Act fails to protect the U.S. shipbuilding industry or serve the interests of national security.

34. At the time of the Jones Act's passage, the U.S. had a robust shipbuilding industry. However, due to lack of competition and high costs, the number of U.S.-built and U.S.-flagged ships has declined dramatically.

35. Today, fewer than 100 oceangoing commercial vessels of at least 1,000 tons remain in the Jones Act fleet. Even fewer of those are suitable for military use.

36. The Jones Act and lack of competition has resulted in a severely diminished merchant fleet. It forces the U.S. military to rely on foreign-built ships for many operations and aging, decrepit U.S.-built ships for others.

37. The U.S. Navy and Department of Defense have repeatedly cited the Jones Act as an obstacle to efficient military logistics due to the high costs and inefficiencies it creates.

38. The Jones Act has rendered expanding the merchant fleet exorbitantly expensive. American-built ships cost three to five times more than foreign-built ships, making it cost prohibitive for U.S. shippers to expand their fleets or new shipping businesses to enter the market. This leaves businesses like Kōloa Rum Company with few options for importing and exporting goods.

39. The number of U.S. mariners has also declined over the past 50 years, and the U.S. maritime labor force is not large enough to meet commercial and military needs.

40. Meanwhile, foreign shipping fleets have grown exponentially, demonstrating that U.S. protectionist policies have failed to make American shipping globally competitive.

The Jones Act's Discriminatory Effect on Hawai'i

41. Hawai'i is uniquely dependent on maritime shipping because it lacks alternative transportation methods such as rail or trucking, which are available to mainland states. Over 80% of Hawai'i's goods are imported, and nearly all come via ship.

42. Because of the Jones Act's restrictions, shipping to and from Hawai'i is significantly more expensive than it would be under a competitive market.

43. The cost of shipping a container from the U.S. West Coast to Hawai'i is two to three times higher than the cost of shipping the same container from the West Coast to Asia despite the latter being a much longer route.

44. A foreign-built ship operating without Jones Act restrictions could transport goods between Hawai'i and California at ~50% lower costs than a Jones Act-compliant vessel.

45. Businesses located in mainland states have shipping options that do not require Jones Act-flagged ships. Both rail and long-haul trucking provide affordable options for non-Hawaiian businesses.

46. Moreover, ports located in states on the lower 48 have options to ship directly in foreign commerce without first transporting interstate. A business in Kentucky, for example, can easily get its cargo to Los Angeles, New York, or Miami, where it can board a foreign-flagged vessel for international commerce.

47. There are only two Jones Act compliant shippers available to Hawai'i businesses. This lack of competition drives up shipping costs and the overall cost of doing business on the island.

48. Foreign flagged ships regularly pass close to Hawai'i en route to the West Coast and, absent the Jones Act, would be able to offer shipping services to Hawai'i businesses eager to send goods to the mainland United States.

49. The higher shipping costs imposed by the Jones Act lead to inflated prices for essential goods, including food products, raw materials, equipment and many other items.

50. Due to the Jones Act, businesses and consumers in Hawai'i pay an estimated \$1.2 billion annually in excess costs—a hidden tax on all goods transported to and from the state. *Quantifying the cost of the Jones Act to Hawai'i*, Grassroot Institute of Hawai'i, (July 2020)¹.

51. These increased costs disproportionately harm businesses like Kōloa Rum Company, which pay higher prices for goods, have fewer, more expensive shipping options for export, and face increased operational expenses that reduce their competitiveness compared to mainland businesses.

The Effect of the Jones Act on Kōloa Rum Company

52. Established on Kaua'i in 2009, Kōloa Rum Company crafts and sells premium rums to Hawaiians and to customers all over the world. As a quintessentially Hawaiian company, even Kōloa Rum Company's name pays homage to the island state's history—the Kōloa region was the home of Hawai'i's first successful sugarcane plantation in 1835.

¹ <https://www.grassrootinstitute.org/wp-content/uploads/2020/07/GRIH-Quantifying-the-cost-of-the-Jones-Act-to-Hawaii.pdf> (last visited Feb. 16, 2025).

53. Kōloa Rum Company is a relatively small but growing enterprise, employing, on average, about 45 people.

54. Kōloa Rum Company's rums are truly unique with many of them incorporating local ingredients produced on Kaua'i. For example, all of Kōloa Rum Company's rums use pure rainwater from Mount Wai'ale'ale. And Kōloa Rum Company's coffee and cacao rums use coffee and cacao grown on Kaua'i.

55. Kōloa Rum Company seeks to make its unique, premium rums available to customers across the United States and the world. To accomplish this mission, Kōloa Rum Company relies heavily on maritime shipping to and from the mainland United States.

56. Kōloa Rum Company regularly imports raw materials such as sugar, glass bottles, and packaging from the mainland United States. And it regularly exports its rums to distributors and other partners on the mainland.

57. These products cost significantly more due to Jones Act restrictions.

58. Because of the unique burdens the Jones Act imposes on Hawaiian ports and businesses, Plaintiff is forced to pay significantly higher costs to ship goods to and from the mainland United States.

59. Due to a lack of international shipping routes from Hawai'i, Kōloa Rum Company must often ship goods to Los Angeles before they are shipped internationally.

60. For an international order from Hawai'i to Sydney, Australia, Kōloa Rum Company must first ship its goods to Los Angeles and then from Los Angeles to Australia.

61. If not for the Jones Act, a ship from Los Angeles bound to Australia could easily stop in Hawai'i. But the Jones Act prohibits an Australian-flagged vessel—or any foreign nation's vessel from—picking up in Hawaiian ports.

62. It is three-times more expensive to ship from Kaua'i to Los Angeles than it is from Los Angeles to Australia.

63. This is typical. Shipping to distributors and other partners on the mainland regularly costs more than shipping to foreign countries much further away.

64. These enhanced costs severely restrict Kōloa Rum Company's ability to do business with mainland customers and makes Kōloa Rum Company's products less competitive in mainland markets.

65. International rums significantly undercut Kōloa Rum Company's costs due solely to the Jones Act's cabotage restrictions driving up shipping costs.

66. These increased costs also make it difficult to compete with foreign-produced rums even within the State of Hawai'i. Kōloa Rum Company must still use Jones Act-flagged ships to transport inter-island.

67. The higher costs of shipping result in increased prices for consumers, negatively impacting businesses like Plaintiff's, which must either absorb the additional costs or pass them on to purchasers.

68. Due to Jones Act restrictions, Kōloa Rum Company faces increased costs, supply chain delays, and barriers to market expansion, placing it at a competitive disadvantage compared to mainland distilleries that do not face these shipping constraints.

69. As a Hawaiian company, Kōloa Rum Company faces disproportionate burdens on its ability to operate compared to mainland states. These burdens are imposed by the Jones Act.

70. Absent Jones Act restrictions, Kōloa Rum Company would have access to shipping options with more competitive pricing and better service. The Jones Act prevents Hawai'i from benefiting from the global shipping market, even though foreign ships routinely travel through the Pacific near Hawai'i on their way to and from the mainland U.S. and Asia.

71. Absent Jones Act restrictions, Kōloa Rum Company would be able to expand its operations and enter new markets on the mainland.

CAUSE OF ACTION

Violation of the Port Preference Clause (U.S. Const. art. I, § 9, cl. 6)

72. Plaintiff alleges and incorporates by reference every allegation set forth in the preceding paragraphs.

73. The Port Preference Clause of the U.S. Constitution, Article I, Section 9, Clause 6, prohibits Congress from enacting laws that favor certain ports over others through regulation of commerce or revenue.

74. The Jones Act's restrictions are designed to prefer mainland U.S. ports over the ports of Hawai'i.

75. The Jones Act was purposefully designed to force Hawai'i to subsidize mainland commerce before Hawai'i was a state.

76. This discriminatory purpose is accomplished by forcing Hawaiian businesses to exclusively use Jones Act-flagged vessels.

77. The effect of the Jones Act is to discriminate against Hawaiian ports.

78. The Jones Act imposes uniquely higher costs on shipping to and from Hawai'i.

79. In purpose and effect, the Jones Act discriminates against the ports of Hawai'i.

80. Because the Jones Act discriminates against the ports of Hawai'i, it violates the Port Preference Clause of the U.S. Constitution.

81. The economic harms inflicted by the Jones Act on Kōloa Rum Company are significant and ongoing. Kōloa Rum Company pays substantially higher shipping costs, has fewer available shipping options, and operates at a competitive disadvantage compared to businesses that have access to ports in other states.

82. Plaintiff seeks declaratory and injunctive relief to prevent Defendants from enforcing the Jones Act's restrictions as applied to interstate commerce between Hawai'i and the mainland United States.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

- A. An entry of judgment declaring the Jones Act's cabotage provisions unconstitutional under the Port Preference Clause as applied to interstate commerce between the ports of Hawai'i and the mainland United States;

- B. An entry of a permanent injunction prohibiting Defendants from enforcing these provisions against Kōloa Rum Company as applied to interstate trade with Hawai'i;
- C. An award of any further legal or equitable relief this Court may deem just and proper.

Dated: February 25, 2025.

Respectfully submitted,

/s/ Joshua P. Thompson

JOSHUA P. THOMPSON

D.D.C. Bar No. TX0084

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Telephone: (916) 419-7111

JThompson@pacificlegal.org

Counsel for Plaintiff

CIVIL COVER SHEET

JS-44 (Rev. 11/2020 DC)

I. (a) PLAINTIFFS Kōloa Rum Company (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>Kauai, HI</u> (EXCEPT IN U.S. PLAINTIFF CASES) (c) ATTORNEYS (FIRMNAME, ADDRESS, AND TELEPHONE NUMBER) Joshua P. Thompson, Pacific Legal Foundation, 555 Capitol Mall, Suite 1290, Sacramento, CA 95814 Telephone: (916) 419-7111	DEFENDANTS Kristi Noem, in her official capacity as Secretary of Homeland Security; and Pete R. Flores, in his official capacity as Acting Commissioner for U.S. Customs and Border Protection, COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>D.C.</u> (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small> ATTORNEYS (IF KNOWN)
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II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY) <input type="radio"/> 1 U.S. Government Plaintiff <input checked="" type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <u>FOR DIVERSITY CASES ONLY!</u> <table><thead><tr><th></th><th>PTF</th><th>DFT</th><th></th><th>PTF</th><th>DFT</th></tr></thead><tbody><tr><td>Citizen of this State</td><td><input type="radio"/> 1</td><td><input type="radio"/> 1</td><td>Incorporated or Principal Place of Business in This State</td><td><input type="radio"/> 4</td><td><input type="radio"/> 4</td></tr><tr><td>Citizen of Another State</td><td><input type="radio"/> 2</td><td><input type="radio"/> 2</td><td>Incorporated and Principal Place of Business in Another State</td><td><input type="radio"/> 5</td><td><input type="radio"/> 5</td></tr><tr><td>Citizen or Subject of a Foreign Country</td><td><input type="radio"/> 3</td><td><input type="radio"/> 3</td><td>Foreign Nation</td><td><input type="radio"/> 6</td><td><input type="radio"/> 6</td></tr></tbody></table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
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<input type="radio"/> E. General Civil (Other)	OR	<input type="radio"/> F. Pro Se General Civil	
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent – Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA) <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input checked="" type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran’s Benefits <input type="checkbox"/> 160 Stockholder’s Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 28 U.S.C. § 1331; Jones Act unlawfully restricts competition in maritime shipping, violating the U.S. Const., art I, § 9, cl. 6

VII. REQUESTED IN COMPLAINT	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
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VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form
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DATE: 2/25/2025	SIGNATURE OF ATTORNEY OF RECORD: /s/ Joshua P. Thompson
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil coversheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

KŌLOA RUM COMPANY,

Plaintiff(s)

v.

KRISTI NOEM, in her official capacity as Secretary of Homeland Security; and PETE R. FLORES, in his official capacity as Acting Commissioner for U.S. Customs and Border Protection,

Defendant(s)

Civil Action No. 1:25-cv-554

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Kristi Noem, Secretary of Homeland Security
Department of Homeland Security
2707 Martin Luther King Jr Ave SE
Washington, DC 20528-0525

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Joshua P. Thompson
Pacific Legal Foundation
555 Capitol Mall, Suite 1290
Sacramento, CA 95814

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

KŌLOA RUM COMPANY,

Plaintiff(s)

v.

KRISTI NOEM, in her official capacity as Secretary of Homeland Security; and PETE R. FLORES, in his official capacity as Acting Commissioner for U.S. Customs and Border Protection,

Defendant(s)

Civil Action No. 1:25-cv-554

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Pete R. Flores, Commissioner U.S. Customs and Border Protection 1300 Pennsylvania Avenue, Suite 4.4-B Washington, D.C. 20229

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Joshua P. Thompson Pacific Legal Foundation 555 Capitol Mall, Suite 1290 Sacramento, CA 95814

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: