

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(Miami Division)

ALLAPATTAH SERVICES, INC. et al.,	:	Case No. 91-0986-Civ-Gold/Simonton
	:	Special Master Thomas E. Scott
Plaintiffs	:	
	:	Dealer: Defazio Express Inc.
v.	:	
	:	Claimant: Thomas R. Melvin
EXXON CORPORATION,	:	
	:	
Defendant	:	

STATES' COUNSEL'S RESPONSE TO REPLY/OPPOSITION
REGARDING CLAIM 3257, STATION 99999

States' Counsel moved for summary judgment dismissing 150 claims **[D.E. 3692]** and Class Counsel filed their response to the motion **[D.E. 3859]**. States' Counsel respectfully responds to the opposition filed and served with respect to Claim 3257 as follows:

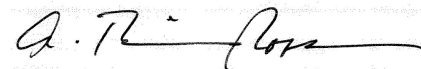
1. The claimant has failed to provide any documentation in support of his claim that he operated a direct-served Exxon station during the Class Period.
2. The records of Exxon have been searched for any information that would associate this dealer or claimant with a direct-served station. Searches were conducted of the dealer's name and address, the address given by the claimant for the station, the towns named in the Proof of Claim for the station location, the "doing business as" name of the dealership and the name of the owner of the corporate dealer identified in the Proof of Claim.

3. The results of the searches, which were not time-limited, did not reveal any information that could associate this dealer or claimant with a direct-served Exxon station.
4. Because there is no station with which the dealer or the claimant can be associated, there are no records that exist by which the claimant could establish any volume of motor fuel purchases or sales. Claimant, therefore, cannot establish any damages.
5. Based on the records maintained by Exxon, the dealer, whether "Benny Defazio," "Benjamin Defazio," or "Defazio Express Inc.," did not exist as a direct-served motor fuel dealer.

WHEREFORE, States' Counsel respectfully requests entry of judgment against the claimant on Claim 3257 dismissing the claim with prejudice.

Respectfully submitted,

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By: /s/Jordan Cohen
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 5, 2007, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system that will send notice of electronic filing counsel of record, and sent a courtesy copy by mail to:

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