

U.S. Customs and Border Protection

Slip Op. 10–65

NAJARIAN FURNITURE CO., INC., Plaintiff, v. UNITED STATES, Defendant.

Before: Leo M. Gordon, Judge
Court No. 09–00428

[Judgment for Plaintiff.]

Dated: June 2, 2010

Arent Fox LLP (Nancy A. Noonan, Diana Dimitriuc-Quaia) for Plaintiff Najarian Furniture Co., Inc.

Tony West, Assistant Attorney General, *Jeanne E. Davidson*, Director, *Patricia M. McCarthy*, Assistant Director, Commercial Litigation Branch, Civil Division, U.S. Department of Justice (*Stephen C. Tosini*, Trial Attorney); and Office of Chief Counsel for Import Administration, U.S. Department of Commerce (*Thomas Beline*, *William G. Isasi*), and Office of Chief Counsel, International Trade Litigation, U.S. Customs and Border Protection, U.S. Department of Homeland Security (*Edward N. Maurer*), of counsel, for Defendant United States.

King & Spalding LLP (*Joseph W. Dorn*, *J. Michael Taylor*, *Jeffrey M. Telep*, *Steven R. Keener*) for Defendant-Intervenors American Furniture Manufacturers Committee for Legal Trade and Vaughan-Bassett Furniture Company, Inc.

OPINION

Gordon, Judge:

I.

Introduction

This case involves the final results of an administrative review of the antidumping duty order covering *Wooden Bedroom Furniture from the People's Republic of China*: Wooden Bedroom Furniture from the People's Republic of China, 74 Fed. Reg. 13,417 (Dep't of Commerce Mar. 27, 2009) (second amended final results admin. review) (“*Second Amended Final Results*”). 99 days after a judicial action challenging the *Second Amended Final Results* had been voluntarily dismissed, the U.S. Department of Commerce tried to correct, through an amendment to liquidation instructions, a ministerial error that went undetected during the administrative review.

In a separate action involving another interested party to the *Second Amended Final Results*, the U.S. Court of Appeals for the Federal Circuit held that Commerce's error was not in the liquidation instructions, but within the final results of the administrative review. *American Signature, Inc. v. United States*, 598 F.3d 816, 823–25 (Fed. Cir. 2010) (“*American Signature*”). The Federal Circuit explained that “Commerce’s *sua sponte* corrections must be made before the final [results of an administrative review are] no longer subject to judicial review,” *id.* at 827–28, and concluded that because Commerce did not correct the error before the time for judicial review had expired, “the error cannot now be corrected.” *Id.* at 828.

The Court of International Trade then entered judgment for the plaintiff in *American Signature*, ordering that its entries of subject merchandise be liquidated (or reliquidated) in accordance with the *Second Amended Final Results* (and not the revised liquidation instructions through which Commerce attempted to correct its ministerial error). *American Signature, Inc. v. United States*. 34 CIT ___, Slip Op 10–58 (May 18, 2010).

The Plaintiff in this action, being similarly situated to the plaintiff in *American Signature*, is entitled to the same relief. Judgment will be entered accordingly.

Dated: June 2, 2010

New York, New York

/s/ Leo M. Gordon

JUDGE LEO M. GORDON