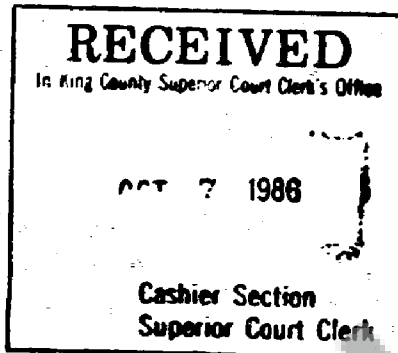


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FILED FOR RECORD  
SKAMANIA CO. WASH  
BY \_\_\_\_\_

Nov 14 3 46 PM '86

AUDITOR  
GARY M. OLSON



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

ACF INDUSTRIES, INC., EVANS  
RAILCAR LEASING COMPANY, and  
GENERAL AMERICAN TRANSPORTATION  
CORPORATION,

Plaintiffs,

v.

WASHINGTON DEPARTMENT OF REVENUE,  
ADAMS COUNTY, BENTON COUNTY,  
CHELAN COUNTY, CLARK COUNTY,  
COWLITZ COUNTY, DOUGLAS COUNTY,  
FRANKLIN COUNTY, GARFIELD COUNTY,  
GRANT COUNTY, GRAYS HARBOR  
COUNTY, KING COUNTY, KITTITAS  
COUNTY, KLUCKITAT COUNTY, LEWIS  
COUNTY, LINCOLN COUNTY, MASON  
COUNTY, PACIFIC COUNTY, PEND  
OREILLE COUNTY, PIERCE COUNTY,  
SKAGIT COUNTY, SKAMANIA COUNTY,  
SNOHOMISH COUNTY, SPOKANE COUNTY,  
THURSON COUNTY, WALLA WALLA  
COUNTY, WHATCOM COUNTY, WHITMAN  
COUNTY, and YAKIMA COUNTY,

Defendants.

86-2-22451-3

NO.

SUMMONS

FILED FOR RECORD  
SKAMANIA CO. WASH  
BY GARY M. OLSON  
SP. DEPT.  
Nov 17 12 56 PM '86  
AUDITOR  
GARY M. OLSON

TO THE DEFENDANTS: A lawsuit has been started against  
you in the above entitled court by ACF Industries, Inc., Evans  
Railcar Leasing Company and General American Transportation

Summons - 1  
NJB000013P

Registered \_\_\_\_\_  
Indexed \_\_\_\_\_  
Indirect \_\_\_\_\_  
Filed \_\_\_\_\_  
Mailed \_\_\_\_\_

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(206) 682-5151

1 Corporation, plaintiffs. Plaintiffs' claims are stated in the  
2 written complaint, a copy of which is served upon you with this  
3 summons.

4 In order to defend against this lawsuit, you must  
5 respond to the complaint by stating your defense in writing, and  
6 by serving a copy upon the person signing this summons within 20  
7 days after the service of this summons, excluding the day of  
8 service, or a default judgment may be entered against you without  
9 notice. A default judgment is one where plaintiffs are entitled  
10 to what they ask for because you have not responded. If you  
11 serve a notice of appearance on the undersigned person, you are  
12 entitled to notice before a default judgment may be entered.

13 You may demand that the plaintiffs file this lawsuit  
14 with the court. If you do so, the demand must be in writing and  
15 must be served upon the person signing this summons. Within 14  
16 days after you serve the demand, the plaintiffs must file this  
17 lawsuit with the court, or the service on you of this summons and  
18 complaint will be void.

19 If you wish to seek the advice of an attorney in this  
20 matter, you should do so promptly so that your written response,  
21 if any, may be served on time.

22 This summons is issued pursuant to rule 4 of the  
23 Superior Court Civil Rules of the State of Washington.  
24  
25

Summons - 2  
NJB000013P

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Dated this 30 day of September, 1986.

BOGLE & GATES

By John T. Piper  
John T. Piper  
Attorneys for Plaintiffs

Summons - 3  
NJB000013P

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RECEIVED

In King County Superior Court Clerk's Office

OCT 7 1986

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Superior Court Clerk

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

ACF INDUSTRIES, INC., EVANS  
RAILCAR LEASING COMPANY, and  
GENERAL AMERICAN TRANSPORTATION  
CORPORATION,

Plaintiffs,

v.

WASHINGTON DEPARTMENT OF REVENUE,  
ADAMS COUNTY, BENTON COUNTY,  
CHELAN COUNTY, CLARK COUNTY,  
COWLITZ COUNTY, DOUGLAS COUNTY,  
FRANKLIN COUNTY, GARFIELD COUNTY,  
GRANT COUNTY, GRAYS HARBOR  
COUNTY, KING COUNTY, KITTITAS  
COUNTY, KLUCKITAT COUNTY, LEWIS  
COUNTY, LINCOLN COUNTY, MASON  
COUNTY, PACIFIC COUNTY, PEND  
OREILLE COUNTY, PIERCE COUNTY,  
SKAGIT COUNTY, SKAMANIA COUNTY,  
SNOHOMISH COUNTY, SPOKANE COUNTY,  
THURSTON COUNTY, WALLA WALLA  
COUNTY, WHATCOM COUNTY, WHITMAN  
COUNTY, and YAKIMA COUNTY,

Defendants.

86-2-22451-3  
NO.

COMPLAINT FOR REFUND  
OF ILLEGALLY COLLECTED  
PROPERTY TAXES AND  
INJUNCTION AGAINST FUTURE  
ASSESSMENT AND COLLECTION  
OF ILLEGAL TAXES

1. JURISDICTION

1.1 Refund. This action includes claims pursuant to  
RCW 84.68.020 for the refund of illegally collected property  
taxes.

Complaint - 1  
NJB000012P

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1           1.2 Injunctions. This action also includes claims  
2 pursuant to 49 U.S.C. § 11503 for injunctive relief prohibiting  
3 the future assessment and collection of illegal property taxes.

4                           2. PLAINTIFFS

5           2.1 In general. Each plaintiff is a "private car  
6 company" as defined in RCW 84.16.010(2).

7           2.2 ACF. ACF Industries, Inc. ("ACF") is a corporation  
8 duly organized and existing under the laws of the state of  
9 New Jersey.

10          2.3 Evans. Evans Railcar Leasing Company ("Evans") is  
11 a corporation duly organized and existing under the laws of the  
12 state of Illinois.

13          2.4 GATX. General American Transportation Corporation  
14 ("GATX") is a corporation duly organized and existing under the  
15 laws of the state of New York.

16                           3. DEFENDANTS

17          3.1 In general. Pursuant to RCW Chapter 84.16, the  
18 Washington Department of Revenue (the "Department") assesses the  
19 plaintiffs' operating property by apportioning the value of the  
20 plaintiffs' entire operating property between Washington and the  
21 other states in which such property operates and then further  
22 apportioning among the various Washington counties in which such  
23 property operates. The remaining defendants are the counties to  
24 which one or more of the plaintiffs pay property taxes.

25  
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1           3.2 Department. The Washington Department of Revenue  
2 is an agency of the state of Washington.

3           3.3 Counties. The remaining defendants (the "coun-  
4 ties"), each of which is a municipal corporation of the state of  
5 Washington, are:

6           Adams County  
7           Benton County  
8           Chelan County  
9           Clark County  
10          Cowlitz County  
11          Douglas County  
12          Franklin County  
13          Garfield County  
14          Grant County  
15          Grays Harbor County  
16          King County  
17          Kittitas County  
18          Klickitat County  
19          Lewis County  
20          Lincoln County  
21          Mason County  
22          Pacific County  
23          Pend Oreille County  
24          Pierce County  
25          Skagit County  
            Skamania County  
            Snohomish County  
            Spokane County  
            Thurston County  
            Walla Walla County  
            Whatcom County  
            Whitman County  
            Yakima County

#### 21           4. FACTS

22           4.1 1985 Assessments. The Department assessed the  
23 plaintiffs' operating property in the state as follows during  
24 1985:  
25

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ACF	\$6,200,000	
Evans	\$3,433,000	
GATX	\$6,000,000	

4.2 First-Half 1986 Payments. Based upon the Department's 1985 assessments, the plaintiffs have made, under written protest, the following first-half 1986 property tax payments to the counties:

Adams County:		
ACF	\$ 4,353.58	
Evans	1,894.15	
GATX	<u>1,509.47</u>	\$ 7,757.20
Benton County:		
ACF	\$ 4,429.90	
Evans	-0-	
GATX	<u>1,786.25</u>	6,216.15
Chelan County:		
ACF	2,492.77	
Evans	-0-	
GATX	<u>904.50</u>	3,397.27
Clark County:		
ACF	\$ -0-	
Evans	760.76	
GATX	<u>664.80</u>	1,425.56
Cowlitz County:		
ACF	\$ -0-	
Evans	1,051.54	
GATX	<u>723.75</u>	1,775.29
Douglas County:		
ACF	\$ 1,873.44	
Evans	-0-	
GATX	<u>-0-</u>	1,873.44
Franklin County:		
ACF	\$ -0-	
Evans	1,611.12	
GATX	<u>1,058.25</u>	2,669.37

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Garfield County:		
ACF	\$ -0-	
Evans	-0-	
GATX	440.95	440.95
Grant County:		
ACF	\$ 2,956.30	
Evans	-0-	
GATX	1,144.80	4,101.10
Grays Harbor County:		
ACF	\$ -0-	
Evans	-0-	
GATX	1,093.70	1,093.70
King County:		
ACF	\$ 7,476.77	
Evans	3,154.26	
GATX	2,411.86	13,042.89
Kittitas County:		
ACF	\$ 1,722.67	
Evans	-0-	
GATX	844.75	2,567.42
Klickitat County:		
ACF	\$ -0-	
Evans	1,775.68	
GATX	1,379.30	3,154.98
Lewis County:		
ACF	\$ -0-	
Evans	-0-	
GATX	881.89	881.89
Lincoln County:		
ACF	5,024.18	
Evans	-0-	
GATX	1,620.70	6,644.88
Mason County:		
ACF	\$ -0-	
Evans	432.44	
GATX	-0-	432.44

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Pacific County:		
ACF	\$ -0-	
Evans	-0-	
GATX	<u>344.14</u>	344.14
Pend Oreille County:		
ACF	\$ 723.94	
Evans	200.43	
GATX	<u>358.86</u>	1,283.23
Pierce County:		
ACF	\$ -0-	
Evans	-0-	
GATX	<u>2,473.56</u>	2,473.56
Skagit County:		
ACF	\$ 1,768.88	
Evans	-0-	
GATX	<u>543.43</u>	2,312.31
Skamania County:		
ACF	\$ -0-	
Evans	491.98	
GATX	<u>286.62</u>	778.60
Snohomish County:		
ACF	\$ -0-	
Evans	-0-	
GATX	<u>1,290.34</u>	1,290.34
Spokane County:		
ACF	\$ 8,207.91	
Evans	3,925.06	
GATX	<u>2,888.41</u>	15,021.38
Thurston County:		
ACF	\$ 5,988.84	
Evans	2,605.50	
GATX	<u>1,384.26</u>	9,978.60
Walla Walla County:		
ACF	7,978.18	
Evans	-0-	
GATX	<u>2,433.94</u>	10,412.12

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1                   Whatcom County:

2                   ACF                   \$       -0-  
3                   Evans                   -0-  
4                   GATX                   594.90                   594.90

5                   Whitman County:

6                   ACF                   \$14,040.52  
7                   Evans                   -0-  
8                   GATX                   5,013.64                   19,054.16

9                   Yakima County:

10                  ACF                   \$ 3,779.72  
11                  Evans                  1,747.12  
12                  GATX                  1,219.28                  6,746.12

13                  Total                                  \$127,763.99

14                  4.3   1986 Assessments.   The Department assessed the  
15   plaintiffs' operating property in the state as follows during  
16   1986:

17                   ACF                   \$5,500,000  
18                   Evans                  \$1,700,000  
19                   GATX                  \$4,800,000

20   Taxes based upon these 1986 assessments will be payable in 1987.

21                  4.4   Assessment and Apportionment Methods.   The Depart-  
22   ment used the same general valuation and apportionment methods in  
23   establishing the 1985 and 1986 assessments for all three plain-  
24   tiffs.

25                  4.5   Nonresident Railroads.   Railroad companies which  
own rail cars, but not track, in the state of Washington ("nonre-  
sident railroads") are not assessed by the Department under  
either Chapter 84.12 or Chapter 84.16 of the Revised Code of  
Washington and hence pay no property taxes anywhere in the state.

1 5. LAW

2 5.1 Uniformity. Article VII, § 1, of the Washington  
3 Constitution provides, in part, that "All taxes shall be uniform  
4 upon the same class of property within the territorial limits of  
5 the authority levying the tax. . . ."

6 5.2 Valuation. RCW 84.16.040 directs the Department to  
7 assess the operating property of each private car company at its  
8 true cash value as of the first day of January of the year in  
9 which the assessment is made.

10 5.3 Apportionment. RCW 84.16.050 directs the Depart-  
11 ment to fairly determine the value of each private car company's  
12 operating property within the state by applying a reasonable and  
13 fair apportionment method to the value of the company's entire  
14 operating property, both within and without the state.

15 5.4 Discrimination. 49 U.S.C. § 11503(b) forbids the  
16 assessment of rail transportation property at a higher ratio to  
17 true market value than other commercial and industrial prop-  
18 erty. It also forbids the collection of tax on any such dis-  
19 criminatory assessment.

20 6. INJURIES

21 6.1 Void Taxes. The failure to assess and tax nonresi-  
22 dent railroads' operating property in the state of Washington,  
23 which is the same class of property as the plaintiffs' operating  
24 property, violates the uniformity requirement of the Washington  
25

Complaint - 8  
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1 Constitution and renders all taxes on the plaintiffs' property  
2 void.

3         6.2 Excessive, Discriminatory Taxes. In the alterna-  
4 tive, the plaintiffs' assessments are excessive and discrimina-  
5 tory because (a) the Department's valuation methods fail to give  
6 proper weight to the applicable valuation approaches, (b) its  
7 apportionment methods fail to fairly reflect the proportion of  
8 the plaintiffs' operating property within the state, (c) conse-  
9 quently, the plaintiffs' assessments greatly exceed the true cash  
10 value of their operating property in the state, and (d) the ratio  
11 of assessed value to true market value of the plaintiffs' operat-  
12 ing property exceeds by at least 5% the ratio of assessed value  
13 to true market value of other commercial and industrial property  
14 in the state.

15                     7. RELIEF

16         7.1 Refunds. The plaintiffs request judgments against  
17 the counties for refunds of all taxes paid during 1986, or such  
18 portion as shall be proven at trial to have been levied contrary  
19 to law, together with interest and costs as allowed by law.

20         7.2 Injunctions. The plaintiffs also request that the  
21 defendants be enjoined from assessing or collecting any property  
22 taxes from the plaintiffs in the future, or such portion as shall  
23 be proven to be contrary to law.

1           7.3 Other Relief. The plaintiffs request such other  
2 relief as may be just and proper under the circumstances.

3           DATED this 30<sup>th</sup> day of September, 1986.

4                           BOGLE & GATES

5  
6                           By John T. Piper  
7                           John T. Piper  
8                           Attorneys for Plaintiffs  
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Complaint - 10  
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