

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 10-11221-GAO

MARCIA MEI-LEE LIU, individually and on behalf of a class of all others similarly situated,
Plaintiff,

v.

AMERCO and U-HAUL INTERNATIONAL, INC.,
Defendants.

ORDER

August 22, 2011

O'TOOLE, D.J.

After review of the parties' submissions and a hearing on the matter, the defendants' Joint Motion to Dismiss for Failure to State a Claim (dkt. no. 12) is GRANTED.

Even assuming arguendo that an invitation to collude is an actionable unfair or deceptive business act or practice under Chapter 93A, the plaintiff has failed to plausibly allege an injury. As to her own transactions, she alleges only that she "purchased a one-way truck rental from U-Haul" on two occasions, (Compl. ¶¶ 2, 3), that on both occasions she "used U-Haul's website to reserve the truck and obtain a rate quote and reservation confirmation directly from U-Haul," (*id.* ¶ 4), and that "[i]n both instances, [she] paid more for these products than she would have paid absent Defendants' unlawful conduct set forth herein," (*id.* ¶ 5). The rest of the complaint alleges the defendants' invitation to collude and its purported effect on prices in the national market for truck rentals. The plaintiff does not set forth any facts about her own transactions, such as what she paid for her one-way truck rentals or what available competitors' rates were at the time. Even if U-Haul had committed an actionable wrong that had a price-raising effect generally on the national market, the basic facts about the plaintiff's individual transactions are necessary to judge whether she was in fact harmed by those general phenomena. Whether she overpaid, and whether such overpayment

was caused by U-Haul's unrequited attempts to collude with Avis Budget Group, Inc., is left entirely to conjecture.

The plaintiff has failed to plead facts sufficient to "raise a right to relief above the speculative level." See Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007). In the absence of "allegations plausibly suggesting (not merely consistent with)" a valid claim for relief, id. at 557, the complaint must be dismissed.

It is SO ORDERED.

/s/ George A. O'Toole, Jr.
United States District Judge