

## Concession Snag Leads To Ship Suit

A lawsuit over a shipboard concession could throw off the timing of the \$28 million upgrade planned for the SS Independence, now en route to Virginia for refurbishment.

Renovations to the 682-foot ship, which takes passengers on interIsland cruises, might hit a snag because of a dispute with Georgia-based W.H. Smith Hotel Services Inc.

W.H. Smith, a subsidiary of W.H. Smith (USA) Group Inc., leases retail space on the Independence and its sister ship, the SS Constitution. The stores sell sundries, clothing and logo items to passengers.

Smith filed suit July 8 in U.S. District Court against Great Hawaiian Cruise Line Inc., Great Hawaiian Properties Corp., Great Hawaiian Independence Inc. and Great Hawaiian Constitution Ship Co.

These entities own or are connected with the two vessels. The ships operate as American Hawaii Cruises, a subsidiary of Chicago-based American Classic Voyages Co.

According to the suit, W.H. Smith seeks a restraining order to stop demolition of its concession area on the Independence during its upcoming refurbishment in Virginia. It also seeks to stop any concession area rework planned for the Constitution, which is expected to go into dry dock in February 1995.

In addition, W.H. Smith objected to the way the concession agreement was terminated and seeks \$2 million in compensatory damages and \$5 million in punitive damages.

The suit seeks declaratory and injunctive relief, and alleges breach of contract. **Richard L. Robbins**, the Mainland attorney for W.H. Smith, claimed the termination of the concession agreement will result in damages for lost investments and profits in excess of \$1.8 million. The store's annual profit was listed at \$250,000.

Richard C. Sutton, the local attorney for W.H. Smith, said. "We think we have strong arguments that they have wrongfully terminated the concession agreement." Sutton believes the concession space has been "substantially demolished" during the trip to the dry dock, even though three years allegedly remain on the concession agreement, he said. The contract agreement also stipulated the store would be moved by "mutual agreement."

Sutton said he and his clients remain concerned about the demolition in relation to when the defendants received the lawsuit.

Jordan B. Allen, attorney for the defendants, said a memorandum in response was filed July 14 in U.S. District Court. "We feel we terminated the contract according to the language of the agreement." Allen said. "We felt the relationship was no longer in our best interest." The defendants reject the plaintiff's argument entirely, he said, adding "we clearly had the right to terminate the agreement."

W.H. Smith (USA) Group operates hotels, resorts and airport retailers across the country. It entered the Hawaii market in February 1988 and operates 25 hotel concessions.