

Date: 20070207

Docket: T-1927-06

Citation: 2007 FC 139

[ENGLISH TRANSLATION]

Montréal, Quebec, February 7, 2007

PRESENT: Richard Morneau, Esq., Prothonotary

ADMIRALTY ACTION *IN PERSONAM*

BETWEEN:

A.P. MOLLER - MAERSK A/S TRADING AS MAERSK SEALAND

Plaintiff

and

MARITIME-ONTARIO FREIGHT LINES LIMITED

Defendant

REASONS FOR ORDER AND ORDER

[1] This is a motion by the plaintiff (Maersk) in this docket under Rule 105 of the *Federal Courts Rules* (the Rules) so that this docket is consolidated with docket T-2143-04.

[2] In this docket, T-1927-06, Maersk is acting as a plaintiff and commenced an action against Maritime-Ontario on November 3, 2006, so that the latter corporation would ultimately be held responsible for damages that Maersk might suffer due the action commenced by Lagoon Seafood in docket T-2143-04.

[3] In docket T-2143-04, it should essentially be known that Lagoon Seafood accuses Maersk of ultimately having delivered a shipment of fish in a damaged state. Maersk considers that it is because of the shipment inspection conducted by Maritime-Ontario that that shipment deteriorated. Hence Maersk's action in T-1927-06.

[4] It seems to me that the interests of the administration of justice require that this motion by Maersk be dismissed. In fact, docket T-2143-04 is at a rather advanced stage. Indeed, docket T-2143-04, which involves Lagoon Seafood against Maersk, is scheduled for trial on June 18, 2007, following an order dated December 7, 2006, which itself arises from the pre-hearing conference that was held on November 1, 2006. It appears to me that by that pre-hearing conference at the latest, Maersk should have raised of the possibility of appealing as a third party against Maritime-Ontario in T-2143-04 or raise at that time the fact that it intended to commence a separate action against Maritime-Ontario and request that the trial to be set in T-2143-04 take into account the fact that it would request that that separate action be consolidated with T-2143-04.

[5] None of this was done, and it appears that docket T-1927-06 is far from being ready for trial, given that Maritime-Ontario is considering proceeding with the examination on discovery, and possibly challenging the jurisdiction of this Court.

[6] In conclusion, even if we could consider, from Maersk's point of view, that its situation as a defendant in T-2143-04 and its situation as plaintiff in T-1927-06 have aspects in common with respect to the facts and on some questions of law, consolidating both dockets at this stage would cause harm to Lagoon Seafood in T-2143-04 and to Maritime-Ontario in T-1927-06. Maersk is simply trying to do too much, too late.

ORDER

Maersk's motion is accordingly dismissed with costs in favour of Maritime-Ontario in this docket, and in favour of Lagoon Seafood in docket T-2143-04.

A copy of these Reasons for Order and Order will also be placed in docket T-2143-04.

Moreover, as discussed in Court, and under Rule 53(2), the Court does not consider that this docket, T-1927-06, is ready for the pre-hearing conference, and the Court therefore cancels the availability dates that were previously offered for that purpose.

"Richard Morneau"

Prothonotary

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1927-06

STYLE OF CAUSE: A.P. MOLLER – MAERSK A/S TRADING AS
MAERSK SEALAND
MARITIME-ONTARIO FREIGHT LINES
LIMITED

Plaintiff

Defendant

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: February 5, 2007

REASONS FOR ORDER: PROTHONOTARY MORNEAU

DATED: February 7, 2007

APPEARANCES:

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Alberto Martinez FOR THE DEFENDANT

Jean-François Bilodeau FOR THE PLAINTIFF
IN DOCKET T-2143-04

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IN DOCKET T-2143-04