

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20120117

Docket: A-373-09

Citation: 2012 FCA 16

**CORAM: NOËL J.A.
DAWSON J.A.
TRUDEL J.A**

BETWEEN:

**CAMI AUTOMOTIVE, INC. and
AISIN WORLD CORPORATION OF AMERICA**

Appellants

and

**WESTWOOD SHIPPING LINES, INC. AS BORGESTAD SHIPPING
and CANADIAN NATIONAL RAILWAY COMPANY**

Respondents

Heard at Vancouver, British Columbia, on January 17, 2012.

Judgment delivered from the Bench at Vancouver, British Columbia, on January 17, 2012.

REASONS FOR JUDGMENT OF THE COURT BY:

TRUDEL J.A

Federal Court
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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Vancouver, British Columbia, on January 17, 2012)

TRUDEL J.A.

[1] Our Court is seized with an appeal and cross-appeal from a decision of the Federal Court (*Cami Automotive Inc. v. Westwood Shipping Lines Inc.*, 2009 FC 664, [2009] F.C.J. No 1064) dealing with preliminary issues regarding the limitation of the respondents' liability resulting from

the derailment of train cars that were moving the appellants' cargo between Vancouver, British Columbia and Toronto, Ontario.

[2] At the beginning of the appeal, counsel for the Canadian National Railway Company indicated his desire to abandon his cross-appeal upon the impact of paragraph 83 of the reasons for judgment being clarified. Given the clarification that follows, the cross-appeal is considered as having been withdrawn.

[3] It is clear from paragraph 8 of the reasons for judgment that the Federal Court Judge was well aware that only issues relating to limitations of liability available to the respondents would be addressed "on the assumption that the [respondents] are liable to the [appellant] but that assumption is without prejudice to any defences that the [respondents] may later raise" (amended bifurcation order of May 14, 2009). It follows that nothing turns on the comments found at paragraph 83.

[4] Turning now to the appeal, despite the numerous arguments made by counsel for the appellants, we are all of the view that this appeal cannot succeed.

[5] Given these arguments, we need say no more than we have not been persuaded that the Federal Court Judge committed errors of law or principle that warrant our intervention. Nor have we been persuaded that the Federal Court Judge committed palpable and overriding errors while making his findings of fact.

[6] Therefore, the appeal will be dismissed with costs to both respondents.

"Johanne Trudel"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-373-09

APPEAL FROM A JUDGMENT OF THE HONOURABLE MR. JUSTICE EDMOND P. BLANCHARD OF THE FEDERAL COURT OF CANADA, DATED JUNE 24, 2009, DOCKET NUMBER T-1600-05 (2009 FC 664)

STYLE OF CAUSE: Cami Automotive, Inc. et al. v.
Westwood Shipping Lines, Inc. et al.

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: January 17, 2012

REASONS FOR JUDGMENT OF THE COURT BY: NOËL, DAWSON, TRUDEL JJ.A.

DELIVERED FROM THE BENCH BY: TRUDEL J.A.

APPEARANCES:

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