

MONTREAL, QUEBEC, THIS 9th DAY OF OCTOBER 1997

PRESENT: RICHARD MORNEAU, ESQ., PROTHONOTARY

BETWEEN:

RED RIVER FOODS INC.
and
KAVANAGH FOODS LTD.
and
ALL THOSE PERSONS HAVING AN INTEREST
IN THE CARGO LADEN ON BOARD
THE VESSELS SAN LORENZO AND ALTONA

Plaintiffs

AND

CANADA MARITIME LTD.
and
PARTENREEDEREI M.S. "KARYATEIN"
and
THE OWNERS AND CHARTERERS OF
THE VESSELS SAN LORENZO AND ALTONA
and
THE VESSELS SAN LORENZO AND ALTONA

Defendants

ORDER

Motion denied. Costs in the cause.

Richard Morneau
Prothonotary

BETWEEN:

RED RIVER FOODS INC.
and
KAVANAGH FOODS LTD.
and
ALL THOSE PERSONS HAVING AN INTEREST
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THE VESSELS SAN LORENZO AND ALTONA

Plaintiffs

AND

CANADA MARITIME LTD.
and
PARTENREEDEREI M.S. "KARYATEIN"
and
THE OWNERS AND CHARTERERS OF
THE VESSELS SAN LORENZO AND ALTONA
and
THE VESSELS SAN LORENZO AND ALTONA

Defendants

REASONS FOR ORDER

RICHARD MORNEAU, ESQ.,
PROTHONOTARY:

This is a motion on behalf of the defendant Canada Maritime Ltd. for an order under rule 446 of the *Federal Court Rules* ordering the plaintiff Red River Foods Inc. to give security for an amount of \$4,500 for the defendant's costs in this action.

As it appears from the statement of claim, the plaintiff Red River Foods Inc. is a resident of the United States while the plaintiff Kavanagh Foods Ltd. is a Canadian resident.

The defendant Canada Maritime Ltd. asserts in an affidavit in support of the motion at bar that Red River Foods Inc. must be seen as the real party at interest in this case, rather than the plaintiff Kavanagh Foods Ltd., the Canadian resident.

Even if that were so, the fact is that the affidavit in support of this motion does not allege that Kavanagh Foods Ltd. would seek to avoid or would not be able to meet an order of costs in relation to the action at bar should one be made in the future against all plaintiffs (see *Figgie International v. Schoettler* (1994), 53 C.P.R. (3d) 450, at 459, and *Titan Linkabit v. S.E.E. Electronic Engineering Inc.* (1992), 42 C.P.R. (3d) 48, at 51).

Therefore no security for costs should be granted. Costs will be in the cause.

Richard Morneau
Prothonotary

Montreal, Quebec
October 9, 1997

RED RIVER FOODS INC.
and
KAVANAGH FOODS LTD.
and
ALL THOSE PERSONS HAVING AN
INTEREST IN THE CARGO LADEN
ON BOARD THE VESSELS SAN LORENZO
AND ALTONA

Plaintiffs

CANADA MARITIME LTD.
and
PARTENREEDEREI M.S. "KARYATEIN"
and
THE OWNERS AND CHARTERERS OF THE
VESSELS SAN LORENZO AND ALTONA
and
THE VESSELS SAN LORENZO AND
ALTONA

Defendants

REASONS FOR ORDER

FEDERAL COURT OF CANADA

NAMES OF COUNSEL AND SOLICITORS OF RECORD

COURT NO.: T-2305-93

STYLE OF CAUSE: RED RIVER FOODS INC. and
KAVANAGH FOODS LTD. and
ALL THOSE PERSONS HAVING AN INTEREST IN
THE CARGO LADEN
ON BOARD THE VESSELS SAN LORENZO AND
ALTONA

Plaintiffs

AND

CANADA MARITIME LTD. and
PARTENREEDEREI M.S. "KARYATEIN" and
THE OWNERS AND CHARTERERS OF THE
VESSELS SAN LORENZO AND ALTONA and
THE VESSELS SAN LORENZO AND ALTONA

Defendants

PLACE OF HEARING: Montreal, Quebec

DATE OF HEARING: October 6, 1997

REASONS FOR ORDER BY: Richard Morneau, Esq.,
Prothonotary

DATE OF REASONS FOR ORDER: October 9, 1997

APPEARANCES:

Me Dominique Barsalou for the Plaintiffs

Me David Colford for the Defendant Canada Maritime Ltd. (owner of the "San Lorenzo")

SOLICITORS OF RECORD:

Me Dominique Barsalou for the Plaintiffs
Sproule, Castonguay, Pollack
Montreal, Quebec

Me David Colford for the Defendant Canada Maritime
Brisset Bishop Ltd. (owner of the "San Lorenzo")
Montreal, Quebec