



BETWEEN:

CANADIAN PACIFIC FOREST PRODUCTS LIMITED -  
TAHSIS PACIFIC REGION,  
- and -  
K & B FOREST PRODUCTS LTD.  
(Softwood Purchasing Division, Shipping Dept.),  
- and -  
ALL THOSE PERSONS HAVING AN INTEREST  
IN THE CARGO LADEN ON BOARD THE VESSEL "VANRI"  
(B/L No: NAN/TIL/027),

Plaintiffs,

AND

PACIFIC COMMERCE LINE INC.,  
-and-  
PCL EUROPEAN SERVICE LTD.,  
-and-  
KAGITINGAN SHIPPING CORP.,  
-and-  
PHILIPPINE PACIFIC OCEAN LINES,  
-and-  
FEDNAV LIMITED,  
-and-  
PROBULK (CANADA) LIMITED,  
-and-  
THE OWNERS AND CHARTERERS OF THE VESSEL "VANRI",  
-and-  
THE VESSEL "VANRI",

Defendants.

**REASONS FOR ORDER**

**RICHARD MORNEAU,**  
**PROTHONOTARY:**

This is an *ex parte* motion by the plaintiffs under Rule 306 of the *Federal Court Rules* (the Rules) seeking an order granting them one year's additional time so that they may serve their amended statement of claim, which was filed on October 28, 1991, on the defendants Pacific Commerce Line Inc. and PCL European Service Ltd. (the defendants).

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**The facts**

On September 9, 1992, the plaintiffs reached an agreement with the defendants. Under that agreement, the defendants agreed to receive a copy of the amended statement of claim, as a method of service, which would operate as service and permission to file.

However, the defendants have not given effect to that agreement and are now definitely refusing to comply with it.

According to the evidence produced, it was only in January 1997 that the plaintiffs realized that the defendants had not given effect to the agreement. From September 1992 to January 1997, the plaintiffs say they were busy conducting negotiations and proceedings against the same defendants in a number of related cases and accordingly did not have an opportunity to learn of the defendants' default before then.

Relying on the agreement that they consider to have been made in the past with the defendants, the plaintiffs are now seeking additional time, as noted earlier, to have a bailiff serve their amended statement of claim.

**Analysis**

In my opinion, it must be realized that the plaintiffs are not really relying on the agreement, since they are not seeking to have performance thereof compelled in this Court. They are trying, as it were, to proceed outside the context of that agreement and thus be given leave to effect service in the traditional manner.

This request for service brings us to Rule 306.

At all relevant times, that rule was included in the body of the Rules and the plaintiffs were certainly aware of its existence. Nonetheless, they made an agreement with the defendants only very late within the initial twelve months allowed by that rule. Having regard to the lateness of the agreement, I am of the opinion that once the twelve months expired, or shortly after that twelve-month period, the plaintiffs should have realized that their agreement was not being complied with and at that point they should have proceeded under Rule 306 so that they might have obtained a short extension to enable them to have a bailiff effect service.

I am of the opinion that the plaintiffs have now come to the Court much too late seeking additional time under Rule 306. It seems to me that in the circumstances, the scheme of that rule required that the plaintiffs move much more speedily. The reasons cited by the plaintiffs for the time they took cannot be accepted, in my opinion.

Accordingly, the plaintiffs' motion will be denied.

**Richard Morneau**  
Prothonotary

Montréal, Quebec  
January 22, 1997

Certified true translation



C. Delon, LL.L.

*Federal Court of Canada*

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Court file No. T-2350-91

BETWEEN

CANADIAN PACIFIC FOREST PRODUCTS  
LIMITED - TAHSIS PACIFIC REGION -and-  
K & B FOREST PRODUCTS LTD.  
(Softwood Purchasing Division, Shipping Dept.)  
-and- ALL THOSE PERSONS HAVING AN  
INTEREST IN THE CARGO LADEN ON BOARD  
THE VESSEL "VANRI" (B/L No: NAN/TIL/027)

Plaintiffs

— and —

PACIFIC COMMERCE LINE INC. -and- PCL  
EUROPEAN SERVICE LTD. -and- KAGITINGAN  
SHIPPING CORP. -and- PHILIPPINE PACIFIC  
OCEAN LINES -and- FEDNAV LIMITED -and-  
PROBULK (CANADA) LIMITED -and-  
THE OWNERS AND CHARTERERS OF THE  
VESSEL "VANRI" -and- THE VESSEL "VANRI"

Defendants

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**REASONS FOR ORDER**

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**FEDERAL COURT OF CANADA**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**COURT FILE NO:** T-2350-91

**STYLE OF CAUSE:** CANADIAN PACIFIC FOREST PRODUCTS ,  
LIMITED - TAHSIS PACIFIC REGION ,  
-and-  
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IN THE CARGO LADEN ON BOARD THE  
VESSEL "VANRI" (B/L No: NAN/TIL/027),

Plaintiffs,

AND

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-and-  
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-and-  
THE OWNERS AND CHARTERERS OF THE  
VESSEL "VANRI",  
-and-  
THE VESSEL "VANRI",

Defendants.

**PLACE OF HEARING:** Montréal, Quebec

**DATE OF HEARING:** January 20, 1997

**REASONS FOR ORDER BY:** Richard Morneau, Prothonotary

**DATE OF REASONS FOR ORDER:** January 22, 1997

**APPEARANCE:**

Jean-François Bilodeau for the plaintiffs

**SOLICITORS OF RECORD:**

Sproule, Castonguay, Pollack for the plaintiffs  
Jean-François Bilodeau  
Montréal, Quebec

JUL 15 1997

**THE FEDERAL COURT  
OF CANADA**

**LA COUR FÉDÉRALE  
DU CANADA**

Court No.: T-2350-91

No. de la cause:

Let the attached certified translation of the following document in this cause be utilized to comply with Section 20 of the **Official Languages Act**.

Je requiers que la traduction ci-annexée du document suivant telle que certifiée par le traducteur soit utilisée pour satisfaire aux exigences de l'article 20 de la **Loi sur les langues officielles**.

Reasons for Order

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June 19, 1997

Richard Morneau

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DATE

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Prothonotary

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