

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: PETITION OF FRESCATI : CIVIL ACTION  
SHIPPING COMPANY, LTD., as :  
Owner of the M/T ATHOS I and :  
TSAKOS SHIPPING & TRADING, :  
S.A., as Manager of the ATHOS I :  
for Exoneration from or :  
Limitation of Liability : No. 05-00305-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

January 23, 2006

A tanker owned by petitioner Frescati Shipping Company, Ltd. was delivering a cargo of oil to Citgo Asphalt Refining Company. As it approached the latter's dock, about 400 feet from its destination, the vessel struck a submerged anchor and was severely damaged. Escaping oil from the damaged vessel then caused extensive damage to the local ecology. This complex litigation is the result.

Citgo is suing the vessel owner for loss of its cargo, and the vessel owner has counterclaimed for the damage to its vessel, alleging, among other things, that Citgo breached its warranty of a safe anchorage. Counsel for Citgo wished to have expert witnesses inspect the vessel and peruse the relevant documents pertaining to its operation immediately preceding the accident. Counsel for the vessel owner disclosed that the vessel was then in Singapore, and was about to be sold. Accordingly, it was agreed that counsel and their experts would promptly travel

to Singapore to inspect the vessel, and the parties obtained from this court a consent order to that effect.

It is undisputed that, by the time counsel and the experts arrived at Singapore, most of the pertinent documents had been removed from the vessel and transferred to the company's headquarters in Greece.

Counsel for Citgo thereupon filed the pending motion for sanctions on the theory that the vessel owner violated the terms of the consent order, and should be required to reimburse the entire cost of the journey to Singapore. At the hearing on this motion, it was established to my satisfaction that, before going to Singapore, Citgo's counsel was made aware that pertinent documents had been, and were being, removed from the vessel and returned to Greece for safekeeping; that this was an ongoing process. Indeed, the consent decree which was submitted to and signed by this court had been negotiated by counsel, and, by agreement, had been re-worded to eliminate a requirement that no documentation would be removed from the vessel.

The most that can be said, I believe, is that the consent order drafted by counsel was somewhat ambiguous, and subject to differing interpretations. There is no basis for a finding of contempt, or for the imposition of sanctions.

An Order follows.

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ORDER

AND NOW, this 23rd day of January 2006, upon  
consideration of the motion of Citgo Asphalt Refining Company for  
an order imposing sanctions against plaintiffs, and plaintiffs'  
response, and after hearing, IT IS ORDERED:

That the motion is DENIED.

BY THE COURT:

/s/ John P. Fullam  
John P. Fullam, Sr. J.