

Federal Court



Cour fédérale

Date: 20160420

Docket: T-940-13

Citation: 2016 FC 447

Ottawa, Ontario, April 20, 2016

PRESENT: The Honourable Madam Justice Heneghan

ADMIRALTY ACTION *IN REM* AND *IN PERSONAM*

BETWEEN:

AGF STEEL INC.

Plaintiff

and

**MILLER SHIPPING LIMITED, MIDNIGHT
MARINE LIMITED, THE TUG “WESTERN
TUGGER”, THE OWNERS AND ALL
OTHERS INTERESTED IN THE TUG
“WESTERN TUGGER”, THE BARGE
“ARCTIC LIFT 1”, THE OWNERS AND ALL
OTHERS INTERESTED IN THE BARGE
“ARCTIC LIFT 1”, THE TUG “NORTHERN
TUGGER”, THE OWNERS AND ALL
OTHERS INTERESTED IN THE TUG
“NORTHERN TUGGER”, THE BARGE
“LABLIFT”, THE OWNERS AND ALL
OTHERS INTERESTED IN THE BARGE
“LABLIFT”, AND MARINE SERVICES
INTERNATIONAL (2008) LTD.**

Defendants

and

MILLER SHIPPING LIMITED

Third Party

AND BETWEEN:

MILLER SHIPPING LIMITED AND MIDNIGHT MARINE LIMITED

Plaintiffs by Counterclaim

and

AGF STEEL INC. AND MARINE SERVICES INTERNATIONAL (2008) LTD.

Defendants by Counterclaim

JUDGMENT

THIS COURT'S JUDGMENT is that this motion for summary judgment is granted in part, the Contract is a charterparty and as such the *Hague-Visby Rules*, being Schedule 3 of the *Marine Liability Act*, S.C. 2001, c.6 do not apply.

The remaining issues will proceed to trial.

The Moving Parties are entitled to costs in respect of their success; brief submissions on costs may be filed within two weeks of this judgment if the parties cannot otherwise agree on costs.

"E. Heneghan"

Judge