

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20110201

Docket: A-253-10

Citation: 2011 FCA 41

**CORAM: NADON J.A.
SHARLOW J.A.
LAYDEN-STEVENSON J.A.**

BETWEEN:

ALPHA TRADING MONACCO SAM

Appellant

and

**THE SHIP "SARAH DESGAGNES"
THE OWNERS AND ALL OTHERS INTERESTED IN THE SHIP
"SARAH DESGAGNES"
TRANSPORT DESGAGNES INC.
PETRO-NAV INC.**

Respondents

Heard at Ottawa, Ontario, on February 1, 2011.

Judgment delivered from the Bench at Ottawa, Ontario, on February 1, 2011.

REASONS FOR JUDGMENT OF THE COURT BY:

NADON J.A.

Federal Court
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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on February 1, 2011)

NADON J.A.

[1] Given that by reason of the arrest of their ship the "SARAH DESGAGNES" (the "ship") in Montreal on December 11, 2009 by the appellant, the respondents undertook to submit themselves and their ship to the jurisdiction of the Federal Court and to provide security for the appellant's claims, and given that the re-arrest of their ship by the appellant in Belgium on May 4, 2010, in the particular circumstances of the case, clearly constitutes an attempt on the part of the appellant to

take unfair advantage of the respondents by forcing them to provide security to guarantee a judgment against a third party, we are of the view that we ought not to interfere with Harrington J.'s decision of June 24, 2010.

[2] Consequently, the appeal will be dismissed with costs.

“M. Nadon”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-253-10

STYLE OF CAUSE: ALPHA TRADING MONACCO
SAM v. THE SHIP "SARAH
DESGAGNES" et al

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: February 1, 2011

REASONS FOR JUDGMENT OF THE COURT BY: NADON, SHARLOW, LAYDEN-
STEVENSON JJ.A.

DELIVERED FROM THE BENCH BY: NADON J.A.

APPEARANCES:

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Marie-Claude Laplante

FOR THE RESPONDENT

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