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Federal Court of Canada
Trial Division



Section de première instance de
la Cour fédérale du Canada

T-2016-93

97 233 005

Vancouver, British Columbia, Monday, the 28th day of July, 1997

Present: The Honourable Mde Justice Reed

Between:

LIMBOURG INVESTMENTS LTD.,

Plaintiff,

- and -

THE SHIP "*PRINCE GEORGE*", HER OWNERS
AND ALL OTHERS INTERESTED, AND
FAIRPORT INVESTMENTS LIMITED,

Defendants.

UPON MOTION, dated the 4th day of November, 1996, on behalf of the Plaintiff, for the following Orders:

1. Pursuant to Rule 1008 that funds paid into Court by the Marshal or by others in accordance with the Order of Mr. Justice Joyal of June 24, 1996, be paid out to the Plaintiff after satisfaction of the fees and disbursements of the Marshal;
2. Pursuant to Rule 344 that the Plaintiff be entitled to recover the costs of defending the vessel and the costs of sale and the Court pursuant to Rule 344(4) award a lump sum in lieu of taxed costs.

REASONS:

I have not been persuaded that the usual priorities should be altered. There is no obvious injustice to the plaintiff in retaining that order. The wages owing to the seamen take precedence over the other liens. Messrs. Peck and Smith were working as seamen during the time to which their claims relate, see *Balodis v. The Ship "Prince George"*, [1985] 1 F.C. 890 (F.C.T.D.).

Mr. Bromley is asked to prepare a draft order, approved as to form by the other parties, and including priority payment to the plaintiff on a party/party basis for the costs of the motion for sale. I would ask that the draft order be submitted to the Court by Wednesday, July 30/97.

(Sgd.) "B. Reed"

Judge

NAMES OF COUNSEL AND SOLICITORS OF RECORD

COURT NO.: T-2016-93

STYLE OF CAUSE: LIMBOURG INVESTMENTS LTD.

- and -

THE SHIP "PRINCE GEORGE", HER OWNERS AND ALL OTHERS INTERESTED, AND FAIRPORT INVESTMENTS LIMITED

PLACE OF HEARING: Vancouver, BC

DATE OF HEARING: July 28, 1997

**REASONS FOR ORDER OF REED, J.
dated July 28, 1997**

APPEARANCES:

Mr. Peter Bernard	for Plaintiff
Mr. John Bromley	for Claimants Messrs. Peck and Smith
Mr. D.G. Morrison	for Claimant Service Oil & Gas
Mr. Warren on his own behalf	for Claimant Lossie Pacific Inc.

SOLICITORS OF RECORD:

Campney & Murphy Vancouver, BC	for Plaintiff
Connell, Lightbody Vancouver, BC	for Claimants Messrs. Peck and Smith
Bull, Housser & Tupper Vancouver, BC	for Claimant Service Oil & Gas

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