

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20101021

Docket: A-269-09

Citation: 2010 FCA 279

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

ADMIRALTY ACTION *IN PERSONAM* and *IN REM*

BETWEEN:

HODDER TUGBOAT CO. LTD.

Plaintiff (Respondent)

and

**JJM CONSTRUCTION LTD., TEXADA QUARRYING LTD.
PACIFIC TOWING SERVICES LTD., OWNERS AND ALL OTHERS
INTERESTED IN THE SHIP, THE "PACIFIC MARINER II"**

Defendants (Respondents)

and

NAVIGATORS INSURANCE COMPANY

Intervenor (Appellant)

Heard at Vancouver, British Columbia, on October 21, 2010.

Judgment delivered from the Bench at Vancouver, British Columbia, on October 21, 2010.

REASONS FOR JUDGMENT OF THE COURT BY:

SHARLOW J.A.

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Intervenor (Appellant)

REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Vancouver, British Columbia, on October 21, 2010)

SHARLOW J.A.

[1] We are of the view that this appeal must be dismissed.

[2] The order under appeal (2009 FC 161) is Justice Lemieux's response to unusual circumstances. The solution he adopted is essentially one of case management. It does not offend any principle of law or procedural fairness, and is well within the scope of his discretion. Contrary to the submissions of counsel for Navigator, we see nothing in the present record to indicate that the order under appeal will inevitably cause Navigator or any insured party to be prejudiced or to be placed in a conflict of interest. Nor are we persuaded that, if such circumstances became apparent in the future, they cannot adequately be dealt with by further case management arrangements.

[3] The appeal will be dismissed. Each of the respondents Pacific Towing Services Ltd. and Texada Quarrying Ltd. is entitled to their costs of the appeal.

“Karen Sharlow”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-269-09

STYLE OF CAUSE: HODDER TUGBOAT CO. LTD. v.
JJM CONSTRUCTION LTD., ET AL v.
NAVIGATORS INSURANCE COMPANY

PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: October 21, 2010

**REASONS FOR JUDGMENT
OF THE COURT BY:** NOËL J.A.
SHARLOW J.A.
LAYDEN-STEVENSON J.A.

DELIVERED FROM THE BENCH BY: SHARLOW J.A.

APPEARANCES:

John K. Phillips	FOR THE APPELLANT
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Gary Wharton	FOR THE RESPONDENT (Texada Quarrying Ltd.)
Michael Adlem	FOR THE RESPONDENT (JJM Construction Ltd.)

SOLICITORS OF RECORD:

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FOR THE APPELLANT

FOR THE RESPONDENT
(Hodder Tugboat Co. Ltd.)

FOR THE RESPONDENTS
(Pacific Towing Ltd, Owners and all
other interested in the Ship “Pacific
Mariner II”, the “Pacific Mariner II”

FOR THE RESPONDENT
(Texada Quarrying Ltd.)

FOR THE RESPONDENT
(JJM Construction Ltd.)