



Walters Metal Corporation v. Universal Am-Can, Ltd. et al

2015 | Cited 0 times | S.D. Illinois | April 23, 2015

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS
WALTERS METAL CORPORATION,

Plaintiff, vs. UNIVERSAL AM-CAN, LTD., THE MASON AND DIXON LINES, INCORPORATED,
SLIDE-N-RIDE TRUCKING, INC., J & D TRUCKING, INC., JC PILOT CAR SERVICE, CAROLYN
SCHAFFER, J.D. DELANEY and CAREN RUTH VINSON,

Defendant.

Case No. 13-cv-1271-SMY-DGW

MEMORANDUM AND ORDER This matter comes before the Court on defendants Slide-N-Ride Trucking, Inc., J & D Trucking, Inc., J.D. Delancey d/b/a J & D Trucking, Inc., and Caren Ruth Vinson (collectively iss Amended Complaint (Doc. 73) to which Plaintiff has responded (Doc. 75). Defendants supplemented (Doc. 82) their Motion to Dismiss after an Order from this Court in the related case of The Mason and Dixon Lines, Incorporated v. Walters Metal Fabrication, Inc., Case Number 13-cv-1262-SMY-DGW. Plaintiff did not respond to ing reasons, DENIED.

This matter arises out of a shipment of over-dimensional goods. Plaintiff, a metal fabrication company located in Granite City, Illinois, sought to transport pipe spools to a customer located in Mont Belvieu, Texas. On December 29, 2012, the driver transporting a bridge. Amended Complaint (Doc. 19) alleges Carmack Amendment and negligence claims. Plaintiff voluntarily dismissed its claims against Carolyn Schaffer d/b/a JC Pilot Car Service and/or JC Pilot Car Service without prejudice. Pursuant to a settlement, Plaintiff dismissed its claims against Universal Am-Can, Ltd. and The Mason and Dixon Lines, Incorporated, with prejudice. The only claims remaining in this case are Carmack Amendment claims against Defendants.

Defendants filed the instant Motion to Dismiss (Doc. 73) arguing that exhibits from this case and a related case, The Mason and Dixon Lines, Incorporated v. Walters Metal Fabrication, Inc., Case Number 13-cv-1262-SMY-DGW and admissions Therefore,

Defendants argue this case must be dismissed because MADL is the only party liable under the Carmack Amendment. In the related case, MADL filed a declaratory judgment action against Walters Metal (Plaintiff in the instant action). Walters filed a counterclaim in the declaratory judgment action alleging both negligence and Carmack Amendment claims against



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5. On November 8, 2012, Walters contracted [MADL] to haul cargo from its facility 6. [MADL] issued a bill of lading to Walters [], obtained permits from the State of Illinois and hired a pilot car to guide the load. 7. While hauling the cargo on I-64 in Williamson County, Illinois, [MADL] acting through its agents or employees, drove the load into the underside of the Herrin Road bridge at 57 mph. The Mason and Dixon Lines, Incorporated v. Walters Metal Fabrication, Inc., Case Number 13-cv-1262-SMY-DGW, Doc. 26, p. 3. this Court found a motor carrier rather than a broker. Therefore, the Court concluded the Carmack Amendment preempted the negligence counterclaim against MADL.

the declaratory judgment action, Defendants herein filed a Supplement (Doc. 82) to their motion arguing that MADL is the motor carrier in the instant case and thus the only entity that can be liable directly to Plaintiff under the Carmack Amendment. Defendants assert collateral estoppel precludes this Court from finding otherwise. out a particular negligent carrier from among the often numerous carriers handling an interstate

S.C. Johnson & Son, Inc. v. Louisville & Nashville R.R. Co., 695 F.2d 253, 256 (7th Cir. 1982) (quoting Reider v. Thompson, 338 U.S. 113, 119 (1950)). to the relief intended by the Amendment a shipper must sue either the carrier issuing the bill of

Centron DPL Co. v. Barrett Moving and Storage Co., No. 91-C-1218, 1991 WL 166506, at *1 (N.D. Ill. Aug. 26, 1991)

Pizzo v. Bekin Van Lines Co., 258 F.3d 629, 634 (7th Cir. 2001). Either of these two carriers may then seek recovery from the carrier that was responsible for the damage. S.C. Johnson & Son, 695 F.2d at 256. In the declaratory judgment action, this described MADL as a motor carrier e claim against MADL was preempted by the Carmack Amendment. As previously noted, however, under the Carmack Amendment, a plaintiff Here, Plaintiff has alleged that each of the 19). As such, Plaintiff has properly pled Carmack Amendment claims s fail because there can only be one liable motor carrier in a Carmack Amendment claim. However, nothing in the language of the statute prohibits a plaintiff from alleging Carmack Amendment claims against more than one potential motor carrier.

For the foregoing reasons, the Court DENIES Defendants Motion to Dismiss (Doc. 73).

IT IS SO ORDERED. DATED: April 23, 2015

s/ Staci M. Yandle STACI M. YANDLE DISTRICT JUDGE

