

17-3781-cv
Psara Energy Ltd. v. Space Shipping Ltd. et al.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

1 At a stated term of the United States Court of Appeals for the Second Circuit,
2 held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the
3 City of New York, on the 4th day of June, two thousand nineteen.

4
5 PRESENT: GERARD E. LYNCH,
6 RAYMOND J. LOHIER, JR.,
7 *Circuit Judges,*
8 BRIAN M. COGAN,*
9 *District Judge.*

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11 PSARA ENERGY LTD.,
12
13 *Plaintiff-Appellant,*

14
15 v. No. 17-3781-cv

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17 SPACE SHIPPING LTD.,
18 GEDEN HOLDINGS, LTD.,

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* Judge Brian M. Cogan, of the United States District Court for the Eastern District of New York, sitting by designation.

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Defendants-Appellees,

ST SHIPPING & TRANSPORT PTE. LTD.,

Garnishee-Appellee.

FOR PLAINTIFF-APPELLANT:

GEORGE A. GAITAS, Gaitas,
Kennedy & Chalos PC,
Houston, TX (Stephan
Skoufalos, Skoufalos LLC,
Stamford, CT, *on the brief*).

FOR DEFENDANTS-APPELLEES:

Simon Harter, Law Offices of
Simon Harter, Esq., Princeton,
NJ, Frederick A. Lovejoy,
Lovejoy & Associates, Easton,
CT.

FOR GARNISHEE-APPELLEE:

PETER J. BEHMKE (Michael P.
Jones, *on the brief*), Herbert
Smith Freehills New York LLP,
New York, NY.

Appeal from a judgment of the United States District Court for the District
of Connecticut (Victor A. Bolden, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED,
AND DECREED that the appeal is DISMISSED as moot.

In October 2017 Psara Energy Ltd. (Psara) commenced this maritime case
as an action in the District Court under Rule B of the Supplemental Rules for

1 Admiralty or Maritime Claims and Asset Forfeiture Actions, seeking to obtain
2 security for claims of over \$19.6 million against Space Shipping Ltd. (Space) by
3 garnishing an award (the Debt) owed to Space by ST Shipping & Transport Pte.
4 Ltd. (ST Shipping). The District Court issued an order of attachment over the
5 Debt but then vacated the order (the Vacatur Order) when it concluded that the
6 Debt was not located within the District of Connecticut. Psara's subsequent
7 motions to stay the Vacatur Order were denied, and it appealed. After the
8 District Court issued its Vacatur Order, ST Shipping initiated a stakeholder
9 proceeding before the English High Court of Justice to resolve Psara's and
10 Space's competing claims to the Debt. The English High Court ruled that
11 \$911,894.40 and £204,620—sums that Space conceded it owed Psara—should be
12 paid from the Debt to Psara, with the balance of the Debt going to Space. ST
13 Shipping then moved to dismiss the present appeal as moot on the ground that
14 the Debt had been liquidated. We assume the parties' familiarity with the
15 underlying facts and the record of prior proceedings, to which we refer only as
16 necessary to explain our decision to dismiss the appeal as moot.

17 Because the thing Psara seeks to attach – the Debt – has been distributed
18 from ST Shipping to Space and to Psara pursuant to the English High Court's

1 order, it no longer exists as a discrete res in ST Shipping's possession. This
2 Court cannot order the attachment of a res that no longer exists within the
3 ownership of the garnishee, ST Shipping. See Republic Nat'l Bank of Miami v.
4 United States, 506 U.S. 80, 87 (1992); Fid. Partners, Inc. v. First Tr. Co. of N.Y., 142
5 F.3d 560, 564–66 (2d Cir. 1998). The appeal is therefore moot. See In re
6 Flanagan, 503 F.3d 171, 178 (2d Cir. 2007); cf. In re McLean Indus., Inc., 857 F.2d
7 88, 89 (2d Cir. 1988).

8 Psara acknowledges that the Debt has been distributed to Psara and Space
9 pursuant to the English High Court's decision. But Psara suggests that we or
10 the District Court may order Space to restore the res to ST Shipping, rendering
11 the res once again attachable notwithstanding that decision. We decline to do so
12 both because we extend comity to the decision of the English High Court, which
13 had proper jurisdiction, and because the enforcement of its decision does not
14 prejudice the rights of United States citizens or violate domestic public policy.
15 Victrix S.S. Co., S.A. v. Salen Dry Cargo A.B., 825 F.2d 709, 713 (2d Cir. 1987).

16 Psara insists that we should not extend comity to the English High Court because
17 the English High Court did not extend comity to our Circuit. But there was no
18 attachment order at the time the English High Court issued its decision. That

1 Court, as it determined, therefore was not “acting in conflict either with an
2 existing order of the Connecticut court or with the wishes of the US Court of
3 Appeals.” ST Shipping v. Space Shipping [2018] EWHC (Comm) 156 [37] (Eng.).

4 We have considered Psara’s remaining arguments as to mootness and
5 conclude that they are without merit. For the foregoing reasons, ST Shipping’s
6 motion to dismiss the appeal is GRANTED and the appeal is DISMISSED as
7 moot. ST Shipping’s motion for sanctions and costs under Rule 38 is denied.

8 FOR THE COURT:
9 Catherine O’Hagan Wolfe, Clerk of Court




**United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007**

ROBERT A. KATZMANN
CHIEF JUDGE

Date: June 04, 2019

Docket #: 17-3781cv

Short Title: PSARA Energy Limited v. Space Shipping Ltd.

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

DC Docket #: 17-cv-1811

DC Court: CT (NEW HAVEN)

DC Judge: Bolden

BILL OF COSTS INSTRUCTIONS

The requirements for filing a bill of costs are set forth in FRAP 39. A form for filing a bill of costs is on the Court's website.

The bill of costs must:

- * be filed within 14 days after the entry of judgment;
- * be verified;
- * be served on all adversaries;
- * not include charges for postage, delivery, service, overtime and the filers edits;
- * identify the number of copies which comprise the printer's unit;
- * include the printer's bills, which must state the minimum charge per printer's unit for a page, a cover, foot lines by the line, and an index and table of cases by the page;
- * state only the number of necessary copies inserted in enclosed form;
- * state actual costs at rates not higher than those generally charged for printing services in New York, New York; excessive charges are subject to reduction;
- * be filed via CM/ECF or if counsel is exempted with the original and two copies.

**United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007**

ROBERT A. KATZMANN
CHIEF JUDGE

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

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VERIFIED ITEMIZED BILL OF COSTS

Counsel for

respectfully submits, pursuant to FRAP 39 (c) the within bill of costs and requests the Clerk to prepare an itemized statement of costs taxed against the

and in favor of

for insertion in the mandate.

Docketing Fee _____

Costs of printing appendix (necessary copies _____) _____

Costs of printing brief (necessary copies _____) _____

Costs of printing reply brief (necessary copies _____) _____

(VERIFICATION HERE)

Signature