

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 04-60803-CIV-GOLD/SIMONTON

OFFICE AND PROFESSIONAL
EMPLOYEES INTERNATIONAL UNION,

Plaintiff,

v.

CANADIAN OFFICE AND PROFESSIONAL
EMPLOYEES UNION, et. al.,

Defendants.

**CLOSED
CIVIL
CASE**

ORDER ON DEFENDANTS' MOTION TO STAY
BASED ON SIMILAR PRIOR FILED CASE AND
ON DEFENDANTS' OTHER PENDING MOTIONS

For reasons orally stated of record on Friday, December 10, 2004, I grant the Defendants' Motion to Stay Based on Similar Prior Filed Case [D.E. # 197]. I conclude that this case and the prior filed case in the Supreme Court of British Columbia are parallel proceedings in that they both involve significantly similar common issues and parties. Having resolved this threshold issue, I further I base my decision on the doctrine of *lis alibi pendens*. I conclude that application of this doctrine is warranted after

applying the factors set forth in *Turner Entertainment Co. v. Degeto Film GmbH*, 25 F.3d 1512, 1518 (11th Cir 1994).

WHEREFORE, it is ORDERED:

1. Defendants' Motion to Stay Based on Similar Prior Filed Case [D.E. # 197] is **GRANTED** and the case is **STAYED** subject to the conditions further set forth in this Order. This cause will be administratively closed and held in abeyance pending further proceedings before the Supreme Court of British Columbia. I shall continue to monitor, by status report from the parties, the status of the ongoing litigation in British Columbia to ascertain whether all claims against all parties to this lawsuit here in the Southern District of Florida, including those allegedly arising out of Florida and involving Florida law, may be heard and resolved by judgment before the Supreme Court of British Columbia. In the event certain claims, which are now pending here, may not be heard and resolved by the Supreme Court of British Columbia for any reason, I shall permit the Plaintiff to further amend its pleadings as to those claims only and further permit additional, or renewed, motions to dismiss so that I may determine if I have (1) subject matter jurisdiction over those claims, (2) personal jurisdiction over the parties affected by those claims, and (3) whether such claims state a cause of action.

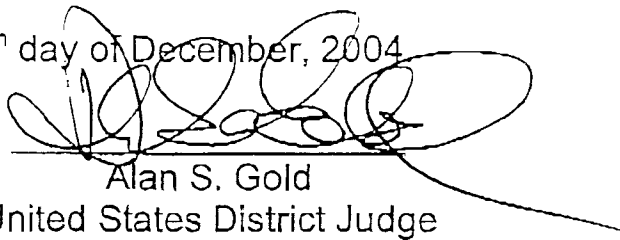
2. The parties shall file a status report within sixty (60) days concerning the litigation in British Columbia. The status report shall advise whether Plaintiff and Defendants have been allowed to file and present all of their claims and defenses, by separate action or otherwise in British Columbia, and whether service of process has been accomplished, by stipulation or otherwise, of the defendants in this cause so as to permit a full and complete resolution of all claims and defenses in Canada. I specifically retain jurisdiction to re-open the cause, upon motion, in the event Canadian law would not permit a full and complete resolution of the cause on all claims and defenses against all parties.

3. The following motions are denied without prejudice based on my ruling on Defendants' motion to stay: (1) Defendants Rule 12 motion to dismiss the complaint for lack of subject matter jurisdiction, personal jurisdiction and venue [D.E. # 196]; (2) Defendant's motion to clarify issues re: identification, appearance and representation of defendants [D.E. # 199]; (3) motion by Colleen Malley to dismiss this action for lack of service of process [D.E. # 200], and (4) Plaintiff's motion to take depositions of persons in Canada [D.E. # 204].

4. This case is **ADMINISTRATIVELY CLOSED** pending further order

of court.

ORDERED this 10th day of December, 2004



Alan S. Gold
United States District Judge

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