

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

IN RE:)
)
TOPGALLANT LINES, INC.,) BANKRUPTCY
) CASE NO. 89-41996
)
DEBTOR)

JAMES L. DRAKE, JR., Trustee)
)
PLAINTIFF) ADVERSARY PROCEEDING
) NO. 92-4368
VS.)
)
NYSA-ILA CONTAINER ROYALTY)
FUND,)
)
DEFENDANT)

JAMES L. DRAKE, JR., Trustee)
)
PLAINTIFF) ADVERSARY PROCEEDING
) NO. 92-4602
VS.)
)
NYSA-ILA CONTAINER FREIGHT)
STATION TRUST,)
)
DEFENDANT)

ORDER ON DEFENDANTS' MOTION FOR RECONSIDERATION

Defendants in the above-two captioned adversary proceedings have filed a Motion to Reconsider the Court's order denying Defendant's Motion for Extension of Time for Filing Motion for Summary Judgment and Response Thereto. In both of these two adversaries, the time within which to conduct discovery expired on April 1, 1994. Any motion for

summary judgment should have been filed within twenty (20) days following that date.

Defendants' motion is premised on the affidavit of Mr. Harvey S. Mars, counsel for Defendant in both cases, as to certain unfortunate personal circumstances which made it impossible for him to attend to the matter of considering the documents produced in the course of discovery and preparing a summary judgment motion in timely fashion. The Court regrets the personal circumstances detailed in Mr. Mars' affidavit and proposes to deviate from the strict application of the local rule so as to allow additional time for the filing of the summary judgment motion.

The trial of both of these adversary proceedings is set for June 7, 1994. On that date, the Court will conduct either a trial of this case or a status conference. In either event, the Court will expect counsel for the Plaintiff and the Defendant, including specifically Mr. Harvey S. Mars, to appear in person in connection with whichever matter appears to be appropriate for disposition at that time.

As for the motion for summary judgment, Defendant shall be allowed twenty (20) days from the date of this order to file such a motion. In the event the motion is filed, the Court will entertain a request from Plaintiff for an extension of the time to respond to the motion. The Court's local rules would allow twenty (20) days for the Plaintiff to respond to the motion for summary judgment. If the motion were filed on May 31, 1994, the last possible date

for the filing of the motion pursuant to this order, the Plaintiff would be permitted to file a response on or before June 20, 1994. It does not appear at this time that the Court would need to extend the deadline for the Plaintiff to reply to the motion for summary judgment. It does appear that the Court would need to consider the question of whether the trial of this case should be postponed to permit the Court to consider the motion for summary judgment, if one is filed, and the reply, if any.

After May 31, 1994, the Court will consider a request from either party to convert the trial date of June 7, 1994 into a status conference. If such a request should be made and granted, appearances for all counsel will be required as specified above.

Now, therefore it is hereby

ORDERED that the Defendant shall be permitted a period of twenty (20) days from today's date to file a motion for summary judgment in either or both of the above-captioned adversary proceedings. In all other respects, the Court's previous orders as to scheduling in this case and the local rules for the Southern District of Georgia shall apply unless and until amended by further order of this Court.

SO ORDERED this 11th day of May, 1994.

JAMES D. WALKER, JR., Judge
United States Bankruptcy Court