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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

THOMAS COOK,

No. C 12-01965 JSW

Plaintiff,

v.

CHAMPION TANKERS AS,

Defendant.

**ORDER DENYING REQUEST
FOR DISCOVERY PERTAINING
TO MOTION TO DISMISS BASED
ON FORUM NON CONVENIENS,
REQUIRING FURTHER
BRIEFING, CONTINUING
HEARING DATE, AND
VACATING CASE
MANAGEMENT CONFERENCE**

Now before the Court for consideration is the motion to dismiss filed by Defendant Champion Tankers AS (“CT”). CT moved to dismiss on the bases of *res judicata*, collateral estoppel, lack of personal jurisdiction and forum non conveniens. Pursuant to stipulation, the parties agreed that the Court should bifurcate the issues of *res judicata* and collateral estoppel and resolve those issues in the first instance. CT’s motion is premised on its argument that this action is barred by a ruling in *Cook v. Champion Shipping AS*, in which the district court dismissed on the basis of forum non conveniens. 732 F. Supp. 2d 1029 (E.D. Cal. 2010), *aff’d* 463 Fed. Appx. 626 (9th Cir. 2011) (“*Cook I*”).

When the parties agreed to bifurcate the issues presented in CT’s motion, they also agreed that those issues “pose[d] no issues of fact, *require[d] no preliminary discovery*, and [could] be briefed, submitted, and decided as a pure matter of law.” (Docket No. 33, Stipulation and Order Bifurcating Hearing on Motion to Dismiss at 1:27-2:2 (emphasis added).) Although

1 he agreed that discovery was not necessary, Plaintiff, Thomas Cook (“Cook”), now requests the
2 opportunity to conduct discovery to show that there are material factual differences between
3 this case and *Cook I*. Cook argues that this discovery is necessary to show that the ruling in
4 *Cook I* does not have preclusive effect in this case. The Court concludes that Cook has not
5 shown that any further discovery is necessary to resolve the issue of forum non conveniens, and
6 it DENIES his request to conduct discovery on that issue.

7 In addition, having reviewed the parties’ papers and the arguments presented on whether
8 collateral estoppel bars Cook’s claims, the Court concludes that it would be beneficial to have
9 the issue of whether this case should be dismissed on the basis of forum non conveniens fully
10 briefed. Because CT has fully briefed this issue in its motion, it is HEREBY ORDERED that
11 Cook shall file a supplemental opposition brief on this issue, and any supporting evidence, by
12 no later than January 29, 2013. Cook’s opposition brief shall not exceed ten (10) pages. CT’s
13 supplemental reply, which also shall not exceed ten pages, shall be due by no later than
14 February 5, 2013.

15 The Court HEREBY CONTINUES the hearing scheduled for January 18, 2013 to
16 March 1, 2013 at 9:00 a.m. If the Court finds the motion suitable for disposition without oral
17 argument, it will advise the parties in advance of the hearing date.

18 The Court VACATES the initial case management conference scheduled for February 8,
19 2013 at 1:30 p.m., and it shall reschedule the case management conference, if necessary, once it
20 has resolved the pending motion.

21 **IT IS SO ORDERED.**

22 Dated: January 15, 2013



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

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