

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CAREFUSION 202, INC.,
Petitioner,
v.
TRES TECH CORPORATION,
Respondent.

No. C-13-2194 EMC

**ORDER DENYING PETITIONER'S
EMERGENCY *EX PARTE*
APPLICATION FOR ORDER
TEMPORARILY STAYING
RESPONDENTS FROM FURTHER
PROCEEDINGS**

(Docket No. 13)

Petitioner CareFusion 202, Inc. has filed a petition to vacate an arbitration award issued by a AAA arbitration panel, which was favorable to Respondent Tres Tech Corporation. Currently pending before the Court is CareFusion's motion for a temporary restraining order. In the motion, CareFusion asks this Court, in effect, to stay a case currently ongoing in a federal district court in Texas. The Texas court has before it a petition to confirm the same arbitration award, which was filed by Tres Tech.

Having considered the parties' briefs and accompanying submissions, the Court finds this matter suitable for disposition without oral argument. CareFusion's request for relief is hereby **DENIED**. As Tres Tech argues, because CareFusion seeks a stay of the proceedings in the Texas court, that request for relief should be made before the Texas court, not this one, particularly as the Texas case was filed before the instant case. *See generally Alltrade, Inc. v. Uniweld Prods., Inc.*, 946 F.2d 622 (9th Cir. 1991) (addressing the first-to-file rule). Moreover, CareFusion's request for temporary injunctive relief is problematic because it has failed to establish a likelihood of


1 irreparable injury. First, it is not clear that the prospect of being subject to different Circuit law is
2 enough to establish irreparable injury. Second, even it could be, Tres Tech persuasively argues that
3 a denial of the request for temporary relief will not result in any irreparable harm to CareFusion
4 because CareFusion may still seek relief from the Texas court.

5 Finally, the Court notes that, in its opposition brief, Tres Tech has asked the Court to dismiss
6 or stay *this* case in favor of the first-filed Texas case. The Court denies this request without
7 prejudice. The Court has before it only CareFusion’s request for relief. It is not appropriate for Tres
8 Tech to seek independent relief as part of an opposition brief.

9 This order disposes of Docket No. 13.

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11 IT IS SO ORDERED.

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13 Dated: May 22, 2013

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16 EDWARD M. CHEN
17 United States District Judge
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