

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 11-CIV-21085-KING

UNITAS CONTAINERS LIMITED,

Plaintiff,

v.

OILNET LIMITED,

Defendant.

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

THIS CAUSE comes before the Court upon Defendant's Motion to Dismiss (DE #10), filed May 6, 2011. Plaintiff's allegations are founded upon an alleged breach of contract arising from the lease of certain steel tank containers, which are "capable of being loaded aboard ocean-going vessels." (DE #1 ¶4). Defendant now seeks dismissal of Plaintiff's Complaint (DE #1), claiming that Plaintiff fails to state a cause of action and fails to specify the basis for the asserted admiralty jurisdiction, thus negating subject-matter jurisdiction. In addition, Defendant contends that Plaintiff's failure to attach any of the alleged contracts at issue should also result in dismissal. In the alternative, Defendant moves for dismissal on the basis of improper venue under Fed. R. Civ. P. 12(b)(3).¹

After considering the parties' arguments and reviewing the Complaint at issue, the Court must concur with Defendant that dismissal is appropriate. There are certainly insufficient facts plead to support a claim for breach of contract, as the Complaint is silent as to any relevant time

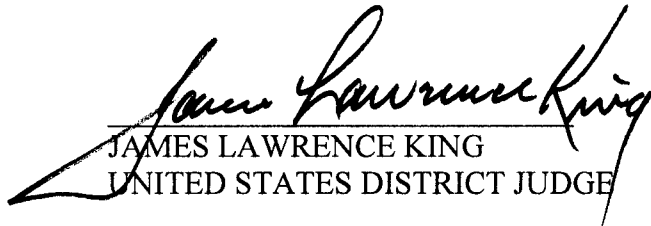
¹ This matter is ripe for determination, as Plaintiff filed its Response (DE #14) on May 23, 2011.

period of the alleged breach. Moreover, as Plaintiff has failed to attach the contacts which serve as the basis for liability, the Court is unable to adjudicate the parties' rights thereto.²

Accordingly, the Court having read the parties' motions and legal authorities and being otherwise fully advised, it is **ORDERED, ADJUDGED, and DECREED** that:

1. Defendant's Motion to Dismiss (DE #10) be, and the same hereby is, **GRANTED.**
2. Plaintiff's Complaint (DE #1) is **DISMISSED without prejudice.** If Plaintiff so desires, it shall **AMEND** its Complaint within fifteen days of the date of this Order.

DONE and ORDERED in Chambers at the James Lawrence King Federal Justice Building and United States Courthouse, Miami, Florida, this 25th day of May, 2011.


JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE

Cc:

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² Relatedly, further clarification of the Court's jurisdiction is appropriate. At the time, it is difficult for the Court to conclude whether it possesses subject-matter jurisdiction over Plaintiff's Complaint. Although it is styled as an admiralty case, the only directly relevant to maritime law is found in paragraph 5, which alleges that "[t]he Tank Containers have been used and by information and belief continue to be used in international commerce." (DE #1 ¶5).

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