

Casetrack Precedent Order Text – Federal Court

Order Code	Description	Text
D-ADM	Admiralty	
D-ADM01	Custody – permission to move ship	<ol style="list-style-type: none"> 1. The ship < NAME OF SHIP > under arrest in < LOCATION > be permitted to: <ol style="list-style-type: none"> (a) sail without deviation to < NAME OF PORT > as soon as practicable but no later than < DATE >; (b) discharge at < NAME OF PORT > the cargo on board consisting of < DESCRIPTION OF CARGO >; (c) thereafter sail to < NAME OF PORT > by no later than < DATE > and proceed to a designated berth, buoy or anchorage as required by the Marshal and remain there until further order of the court. 2. Prior to the ship < NAME OF SHIP > leaving her present berth, the applicant for permission to sail be required to: <ol style="list-style-type: none"> (a) pay or cause to be paid to the Marshal the sum of \$< AMOUNT > (“the Fund”); (b) provide evidence in a form satisfactory to the Marshal that a policy of Hull and Machinery Insurance on the ship remains in force until < DATE >; (c) provide evidence in a form satisfactory to the Marshal that a policy of P&I Insurance on the ship remains in full force and effect until < DATE >; (d) deliver to the Marshal all passports of the crew to be held by the Marshal pending the arrival of the ship at < NAME OF PORT >. 3. The Marshal pay from the Fund all costs, charges, payments and fees incurred of and incidental to any voyage made pursuant to these orders, together with all costs and charges of and incidental to any discharge of cargo undertaken pursuant to Order < NUMBER >, including, but not limited to all insurances, stevedoring costs, pilotage fees, port services charges, wharfage, mooring and unmooring charges, unshackling and reshackling charges, hire of tugs, line boat charges, navigation charges, crew wages and overtime, bunkers consumed and watchmen. 4. No costs payable pursuant to order < NUMBER > shall be deemed to be costs of the arrest. 5. If there is any surplus from the Fund after the return of the ship to < NAME OF PORT > that surplus shall be returned to the applicant. 6. The < plaintiff / applicant / defendant > be permitted to place a representative on board the ship for the duration of any voyage made pursuant to these orders subject to the < plaintiff / applicant / defendant > providing to the Marshal the name and details of the representative < at least 48 hours before the date of departure >< by DATE > . 7. The Marshal allow to be taken on board the ship such persons as the Marshal considers appropriate for the purpose of retaining the safe custody, control and preservation of the ship during the period of any voyages undertaken pursuant to this order. <p>< Alternatively to orders 2 and 3: The Court notes the undertaking by the applicant for permission to sail to:</p> <ol style="list-style-type: none"> (a) pay to the Marshal any costs and expenses incurred in relation to the voyage and/or discharging or loading of cargo permitted pursuant to these orders; and (b) indemnify the Marshal against any claims made against the Marshal in relation to any voyage undertaken pursuant to these orders. >

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D-ADM02	Release – directions on security	<p>8. The plaintiff file on or before < DATE > an affidavit setting out the amount for which the plaintiff seeks security and the material facts upon which the amount is based.</p> <p>9. The Marshal file on or before < DATE > an affidavit setting out in detail the amount of the Marshal's expenses to date and the further amount the Marshal expects will or might be incurred for expenses of arrest up to the expected date of release.</p>
D-ADM03	Release – on security	<p>10. The < NAME OF PARTY TO PAY THE SECURITY > pay into Court by way of security for the release of the ship < NAME OF SHIP > the sum of \$< AMOUNT >.</p> <p>11. The Registrar invest the moneys paid into Court pursuant to order 1 in an interest bearing account on deposit.</p> <p>12. The < PLAINTIFF / ARRESTING PARTY > pay to the Marshal the sum of \$< AMOUNT > on account of fees, costs and expenses properly incurred by the Marshal in connection with the arrest and release of the ship.</p> <p>13. The Marshal release the ship < NAME OF SHIP > upon the making of the payments provided for in orders < NUMBERS > and upon the < PLAINTIFF / ARRESTING PARTY > by its counsel undertaking to the Court that it will pay to the Marshal any fees, costs and expenses properly incurred by the Marshal in connection with the arrest and/or release of the ship additional to the sum specified in order < NUMBER >.</p>
D-ADM04	Release – arrest set aside	<p>14. The warrant for the arrest of the ship < NAME OF SHIP > issued on < DATE > be set aside.</p> <p>15. The Marshal release the ship < NAME OF SHIP >.</p>
D-ADM05	Master & Crew – maintenance while ship under arrest	<p>16. The Marshal arrange for the ship < NAME OF SHIP > to be provided with such supplies of food and water as are reasonably necessary to meet the requirements of the crew.</p> <p>17. The Marshal take such steps as may be necessary to arrange for medical attention for any member of the crew of the ship < NAME OF SHIP > for whom it is required including, but not limited to, arrangements for bringing such crew member to shore for that purpose.</p>

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D-ADM06	Master & Crew – repatriation at plaintiff expense	<p>18. The Marshal repatriate the crew named in Annexure “A” hereto on board the ship < NAME OF SHIP > and that such repatriation take place on or before < DATE >.</p> <p>19. The < NAME OF PARTY > pay to the Marshal on or before < DATE > the costs and expenses of the repatriation of the crew in accordance with order < NUMBER >.</p> <p>20. The Marshal determine < by inquiry from the master and inspection of the ship’s records > the amount of the wages payable to the crew to be repatriated and the crew remaining on board, and notify the < NAME OF PARTY > on or before < DATE > of the amounts payable for wages.</p> <p>21. The < NAME OF PARTY > pay to the Marshal on or before < DATE > the amount of outstanding wages owing to the crew to be repatriated:</p> <p>(a) up to the date of arrest; and</p> <p>(b) for the period between the date of arrest and their repatriation.</p> <p>22. <i>(If a caretaker crew are left on board)</i> The < NAME OF PARTY > pay to the Marshal on or before < DATE > the amount of the outstanding wages owing to the master and crew named in Annexure “B” remaining on board the ship < NAME OF SHIP >:</p> <p>(a) up to the date of arrest; and</p> <p>(b) for the period from the date of arrest to the date of these orders; and</p> <p>(c) on demand by the Marshal, for the period from the date of these orders to the date of the repatriation of the master and crew.</p> <p>23. Upon receiving the < payment/payments > pursuant to order < NUMBER >, the Marshal pay:</p> <p>(a) to the crew to be repatriated, the outstanding wages referred to in order < NUMBER >; and</p> <p>(b) to the master and crew remaining on board the ship, the outstanding wages referred to in order < NUMBER >.</p> <p>24. The costs and expenses of repatriation of the crew and the payment of the wages of the crew from the date of arrest be costs and expenses of the arrest.</p> <p>25. In respect of any payment by the < NAME OF PARTY > of wages owing to the crew prior to the date of arrest, the < NAME OF PARTY > be subrogated to the rights of each of the master and crew of the ship against any fund constituted upon the sale of the ship.</p>
D-ADM07	Master & Crew – repatriation at Marshal's expense	<p>26. The Marshal repatriate the crew named in Annexure “A” hereto on board the ship < NAME OF SHIP > and that such repatriation take place on or before < DATE >.</p> <p>27. The Marshal pay to the crew on or before < DATE > the amount of outstanding wages owing to the said crew:</p> <p>(a) up to the date of arrest; and</p> <p>(b) for the period between the date of arrest and their repatriation.</p> <p>28. <i>(If a caretaker crew are left on board)</i> On or before < DATE > the Marshal pay to the master and crew named in Annexure “B” remaining on board the ship < NAME OF SHIP > the amount of the outstanding wages owing:</p> <p>(a) up to the date of arrest; and</p> <p>(b) for the period from the date of arrest to the date of these orders; and</p> <p>(c) for the period from the date of these orders to the date of the repatriation of the master and crew.</p> <p>29. The costs and expenses of repatriation of the crew and the payment of the wages of the crew up to the date of their repatriation form part of the Marshal’s costs and expenses of the arrest and a first charge on the proceeds of sale of the ship.</p>

Order Code	Description	Text
D-ADM08	Directions – joining intervener as party	<p>30. < NAME OF INTERVENER > be joined as a < plaintiff / defendant > in these proceedings to the extent necessary to protect the intervener’s interests in the res.</p> <p>31. < NAME OF INTERVENER > must cause a Notice of Appearance to be filed in the registry on or before < DATE >.</p> <p>32. < NAME OF INTERVENER > must on or before < DATE > file and serve on each other party in these proceedings a statement of claim.</p>
D-ADM09	Directions – preliminary acts	<p>33. The preliminary acts not be opened prior to the filing of all statements of evidence to be relied upon by the parties.</p> <p>34. The defendant seek further and better particulars of the plaintiff’s claim for damages on or before < DATE >.</p>
D-ADM10	Sale – order for sale of ship	<p>35. The Marshal appoint a < MARINE SURVEYOR/SHIPS BROKER > on or before < DATE > for the purpose of providing to the Marshal a written valuation of ship < NAME OF SHIP >.</p> <p>36. The Marshal provide to each party, caveator and intervener as soon as practicable after receipt of the written valuation:</p> <ul style="list-style-type: none"> (a) a copy of the valuation of the ship obtained pursuant to order < NUMBER >; (b) the name of the ships broker the Marshal proposes to engage to sell the ship; (c) the recommendations of that ships broker as to the method by which the ship ought to be sold for the purposes of achieving the best possible price. <p>37. The ship < NAME OF SHIP > be sold by the Marshal by < PUBLIC AUCTION/PUBLIC TENDER/SEALED TENDER/PRIVATE TREATY > < or by a method as otherwise advised by the appointed ships broker and agreed to by the Marshal >, as soon as practicable.</p> <p>38. < The Marshal disclose to the Court in chambers the highest bid following the close of tenders. ></p> <p>39. The Marshal be authorised to:</p> <ul style="list-style-type: none"> (a) remove such moveable equipment or other property of the ship as the Marshal thinks fit and to store the same in safekeeping in such premises as the Marshal shall approve; and (b) take custody of and retain the ship’s log books, certificate of registry and other certificates and documents of the ship. <p>40. The Marshal < have liberty to > send for publication in < NAME OF PUBLICATION(S) > < and in such other publications as the Marshal considers appropriate >:</p> <ul style="list-style-type: none"> (a) an advertisement for the sale of the ship< ; and (b) a notice which accords with Form 28 of the Admiralty Rules >. <p>41. The costs and expenses incurred in appraisalment and in the sale of the ship, including any advertising of the ship for sale, be paid out of the proceeds of sale of the ship as part of the Marshal’s costs and expenses in this proceeding.</p>
D-ADM11	Sale – acceptance of tender	<p>42. The Marshal accept the tender of < NAME > of < ADDRESS > to purchase the ship < NAME OF SHIP > for the sum contained in the tenderer’s offer with such purchase being made in the terms of the Conditions of Sale of the ship prepared by the Marshal.</p> <p>43. The purchase price be paid by or on behalf of < NAME > in accordance with the Conditions of Sale.</p> <p>44. On payment of the whole of the purchase price by < NAME >, the Marshal deliver to < NAME > or the tenderer’s duly appointed agent the ship in accordance with the Marshal’s Conditions of Sale.</p> <p>45. All crews’ logs and other similar documents on board the ship and not required according to the Conditions of Sale to be delivered to < NAME OF BUYER >, be delivered by the Marshal to the Registrar and not be disclosed or released to any person until further order.</p>

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D-ADM12	Sale – account for proceeds	<p>46. The Marshal open an account with the < NAME OF INSTITUTION > at the < ADDRESS > branch entitled “Marshal – sale of < NAME OF SHIP >” in < TYPE OF CURRENCY >. The persons entitled to draw on the account are to be any two of < NAMES >.</p> <p>47. No amount in excess of \$< AMOUNT > is to be withdrawn from the account without the further order of the Court.</p>
D-ADM13	Costs - of arresting party	<p>48. The following costs and expenses as or when paid by the < ARRESTING PARTY > be included as part of the costs and expenses of the arrest and be recoverable by the < ARRESTING PARTY > in priority to all claims against the res other than the claim of the Marshal:</p> <p>(a) < DETAILS OF COSTS AND EXPENSES (which might include berth hire fees; security expenses, mooring expenses; the costs of moving the ship between berths (including towage and pilot fees); insurance of the ship whilst under arrest; the provision of water to the ship; Marshal’s wages; vehicle costs; indemnity insurance; crew victualling and supplies; miscellaneous disbursements; etc) >.</p> <p>(b) ...</p>
D-ADM14	Priorities – determining priorities	<p>49. The Marshal publish in < NAME OF PUBLICATION(S) > on or before < DATE > a notice in accordance with Form 28 of the Admiralty Rules of the Court’s intention to determine priorities between the competing claims.</p> <p>50. The advertisement notify any person having a claim against the Fund who wishes to participate in the proceeding, that the Court expects any such claim against the proceeds of sale to be commenced by statement of claim filed on or before < DATE >.</p> <p>51. Any person who has brought or brings proceedings against the Fund, if that person has not already done so, must:</p> <p>(a) serve on each other party a copy of that person’s statement of claim; and</p> <p>(b) if the person intends to file a caveat against release of the Fund, that person do so on or before < DATE >.</p> <p>52. Any person who has brought or brings proceedings against the Fund must file and serve on the other parties all affidavit evidence in support of its claim on or before < DATE >.</p> <p>53. Any party who wishes to contest the entitlement to judgment of any other party must file and serve notice of the same on or before < DATE > together with any affidavit material to be relied upon.</p> <p>54. Any subpoenas or notices to produce in relation to the claims made be returnable on < DATE >.</p> <p>55. Any affidavits in reply be filed and served on or before < DATE >.</p> <p>56. The < DATE > be fixed for the hearing of all claims for judgment against the Fund and the determination of priorities.</p>
D-ADM15	Priorities – orders for priority	<p>57. The order of priority of claims against the fund representing the proceeds of sale of the ship < NAME OF SHIP > be as follows:</p> <p>(a) the fees and expenses of the Marshal incurred in respect of the arrest, valuation and sale of the ship;</p> <p>(b) the costs and expenses of < NAME OF PARTY > of the</p> <p>(i) < INSERT DETAILS >;</p> <p>(c) the amount of \$< AMOUNT > owing to the master and crew pursuant to judgment entered on < DATE > in respect of wages earned in service on the ship;</p> <p>(d) the judgments in rem obtained by < NAME OF PARTY >, < NAME OF PARTY > and < NAME OF PARTY > rank pari passu.</p>

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D-ADM16	Proceeds – distribution of proceeds	<p>58. The Marshal pay from the Fund the amount of \$< AMOUNT > for the Marshal's expenses incurred in the arrest, custody (including movement of the ship and the loading or unloading of any cargo), valuation and sale of the ship < NAME OF SHIP >.</p> <p>59. The Marshal forthwith pay the following amounts from the Fund in satisfaction of the judgment(s) entered in these proceedings:</p> <p>(a) to < NAME OF PAYEE > the sum of \$< JUDGMENT AMOUNT > together with interest for each day after < DATE OF JUDGMENT > that the judgment amount remains unpaid at the daily rate of < INTEREST RATE >;</p> <p>(b) ...</p>
D-ADM99	Admiralty – free text order specific to case	60. < FREE TEXT >