

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE  
PORTLAND DIVISION  
IN ADMIRALTY

THOMAS B. FEDERLE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action 2013-cv-_____-_____
	)	
SCHOONER NATHANIEL BOWDITCH	)	
(O.N. 222228),	)	
her engines, boilers, tackle,	)	
appurtenances, electronics, etc., <i>in rem</i> , and	)	
SCHOONER NATHANIEL BOWDITCH, LLC,	)	
SCHOONER NATHANIEL BOWDITCH, INC.,	)	
and OWEN DORR and CATHLEEN DORR,	)	
<i>in personam</i> ,	)	
	)	
	)	
Defendants.	)	
	)	
	)	(NON-JURY)

PLAINTIFF’S VERIFIED COMPLAINT

NOW COMES Thomas B. Federle, Plaintiff in the above captioned action, and, complaining of Defendants, shows this Honorable Court as follows:

1. This is a case of breach of contract, default, and foreclosure of a maritime lien under the terms of a first preferred ship mortgage and is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure; Plaintiff invokes the original admiralty jurisdiction of this Honorable Court pursuant to 28 U.S.C. § 1333(1).
2. This case is governed by the Commercial Instruments and Maritime Lien Act, 46 U.S.C. § 31301 *et seq.*, the General Maritime Law of the United States, and laws supplemental thereto and amendatory thereof.

3. At all times material hereto, Plaintiff Thomas Federle (hereinafter “Plaintiff”) was and is a resident of the State of Maine.
4. The Schooner Nathaniel Bowditch (O.N. 222228), her engines, boilers, etc., was and is an 82-foot (LOD) wooden-hulled sailing vessel, built in 1922, and rigged as a two-masted schooner (hereinafter “Vessel”).
5. On information and belief, at all times material hereto, Defendants Owen and Cathleen Dorr (hereinafter “Vessel Owner” or “Guarantor”), residing at 256 Old County Road in Rockland, Maine 04841, were and are residents of the State of Maine, have had a 100% ownership interest in the Defendant Vessel, and were and are Personal Guarantors of the loan on the subject Vessel, as is more fully set forth herein.
6. On information and belief, Defendants were operating and doing business according to the laws of the State of Maine.
7. On information and belief, until recently, the Defendants operated the Vessel in the North Atlantic Ocean, including the waters in and around Penobscot Bay, Maine.
8. The Vessel, currently berthed in Rockland, Maine, is within the District of Maine and will be within the District while the action is pending.
9. The Vessel’s masts and standing rigging are located, or believed to be located, at North End Shipyard, 11 Front St., Rockland, Maine.
10. On information and belief, the Vessel’s sails, blocks, furniture, running rigging, small boats, lifejackets, and assorted operational and safety equipment are located at Defendants’ barn at 256 Old County Road, Rockland, Maine.
11. All other boilers, cables, engines, machinery, bowsprits, sails, rigging, boats, anchors, chains,

tackle, apparel, furniture, fittings, tools, pumps, equipment and supplies, and all other appurtenances and accessories, additions, and improvements are located, or believed to be located on the vessel in Rockland, Maine. **Survey of Schooner Nathaniel Bowditch performed August 16, 2013, is attached hereto, and incorporated herein, as Exhibit A.**

12. On January 27, 2010, Defendants granted to the First, N.A., P.O. Box 940, Damariscotta, Maine, a Maine bank located in Damariscotta Maine (“the Lender”), a First Preferred Ship Mortgage of the Vessel “together with all masts, boilers, cables, engines, machinery, bowsprits, sails, rigging, boats, anchors, chains, tackle, apparel, furniture, fittings, tools, pumps, equipment and supplies, and all fishing and other appurtenances and accessories and additions, improvements and replacements now or hereafter belonging thereto, whether or not removed therefrom, all of which shall be deemed to be included in the term “vessel” herein....” **First Preferred Ship Mortgage is attached hereto, and incorporated herein, as Exhibit B.**

13. The First Preferred Ship Mortgage secures a Promissory Note also dated January 27, 2010 in which Defendants promised to pay to the Lender the principal amount of Three Hundred Seventy-five Dollars (\$375,000.00), together with interest on the unpaid principal balance from January 25, 2010, until paid in full, with said payments made pursuant to a schedule set forth in the Promissory Note. **Promissory Note is attached hereto, and incorporated herein, as Exhibit C.**

14. On March 4, 2011, Defendants and Lender entered into a Change in Terms Agreement showing a remaining principal balance of \$375,000.00 and a description of the change of terms as follows, to wit: “MONTHLY PRINCIPAL AND INTEREST PAYMENTS IN THE

AMOUNT OF \$8,112.82 WILL BE DUE JUNE 27, 2011 THROUGH OCTOBER 27, 2011.

THE FINAL PAYMENT OF ALL UNPAID PRINCIPAL PLUS ACCRUED INTEREST WILL BE DUE ON OCTOBER 31, 2011. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME. **Change in Terms Agreement is attached hereto, and incorporated herein, as Exhibit D.**

15. Defendant Owen Dorr and Defendant Cathleen Dorr each personally granted a Commercial Guaranty guaranteeing their payment and performance of the Promissory Note and related indebtedness. **Commercial Guarantees are attached hereto, and incorporated herein, as Exhibit E.**
16. On March 22, 2012, the Lender assigned the First Preferred Mortgage to the Plaintiff and assigned the Promissory Note, the Change in Terms Agreement, and the Commercial Guarantees to Plaintiff. **See Assignment of Ship Mortgage attached hereto, and incorporated herein, as Exhibit F; and see written assignments on Exhibits B-E (all five exhibits hereinafter referred to as “the Loan Documents”).**
17. Defendants have defaulted on the Loan Documents by failing to make any payment to Plaintiff.

FOR A FIRST CAUSE OF ACTION  
(Foreclosure of Maritime Lien)

18. Plaintiff restates the above allegations as if set forth herein verbatim.
19. Plaintiff is the holder for value of said First Preferred Mortgage on the vessel. Plaintiff holds a first priority maritime lien against said vessel in the full amount of the said indebtedness

and including all attorneys' fees, costs, and interest.

20. Under the Loan Documents, Defendants owe Plaintiff \$375,000.00, plus interest, fees and costs.
21. Defendants defaulted under the terms and conditions of the Loan Documents by failing to make any payment thereunder.
22. Plaintiff has reasonably incurred, and will in the future incur, attorneys' fees, Substitute Custodian fees, expense of port risk insurance, fees of the U.S. Marshals Service, and is entitled to pre-judgment interest at the contractual default rate of the London Interbank Offered Rate (LIBOR- 1 month), as published, plus 5%, and other reasonable costs and expenses of collection as may be proven herein.
23. Plaintiff brings this action for foreclosure of the said Mortgage on the vessel, for interlocutory or final sale of the Defendant vessel, for judgment against Defendants, jointly and severally, for the full amount of the said indebtedness with all costs, fees, and interest, and for deficiency judgment against the said Defendants, jointly and severally, for any deficiency unpaid after sale of the vessel.

FOR A SECOND CAUSE OF ACTION  
(Breach of Contract – Suit on Note)

24. Plaintiff restates the above allegations as if set forth herein verbatim.
25. Defendants signed said executed said Loan Documents and guaranteed their promise to perform and pay thereunder.
26. Defendants materially breached the contractual terms of the Loan Documents.
27. As a direct and proximate result of said material breaches, Defendants are indebted to

Plaintiff in the principal amount of \$375,000, plus all said attorneys' fees, costs, interest, and other amounts and expenses recoverable under the loan documents or by law.

28. Plaintiff is entitled to judgment against Defendants, *in personam*, jointly and severally, for \$375,000, plus all said attorneys' fees, costs, interest, and other amounts and expenses recoverable under the loan documents or by law.

PLAINTIFF'S PRAYER

WHEREFORE, by reason of the foregoing, Plaintiff prays that summons issue as to all Defendants herein; that the Defendants be made to appear and answer the aforesaid matters; that process in due form of law according to the practice of this Court in cases of Admiralty and Maritime Jurisdiction issue against Defendant Vessel, Schooner Nathaniel Bowditch, her boilers, cables, engines, machinery, bowsprits, sails, rigging, boats, anchors, chains, tackle, apparel, furniture, fittings, tools, pumps, equipment and supplies, and all other appurtenances and accessories, additions, and improvements; that judgment be rendered for Plaintiff and against the Defendant Vessel *in rem* in the amount of the debts owed under the Loan Documents, plus interest at the contractual rate, attorneys' fees, *in custodia legis* expenses, and all other costs and expenses of collection; that judgment be rendered for Plaintiff and against Defendants Owen Dorr and Cathleen Dorr, and Schooner Nathaniel Bowditch, LLC, and Schooner Nathaniel Bowditch, Inc., *in personam*, jointly and severally, in the amount of the debts owed under the Loan Documents, plus interest at the contractual rate, attorneys' fees, *in custodia legis* expenses, and other costs and expenses of collection; that Defendant vessel, her boilers, cables, engines, machinery, bowsprits, sails, rigging, boats, anchors, chains, tackle, apparel, furniture, fittings, tools, pumps, equipment and supplies, and all fishing and other appurtenances and accessories, additions, and improvements be sold by the

United States Marshal for this District; that the proceeds of the sale be applied toward any judgment rendered herein; that Plaintiff be granted a deficiency judgment against Defendants Owen Dorr and Cathleen Dorr, and Schooner Nathaniel Bowditch, LLC, and Schooner Nathaniel Bowditch, Inc., *in personam*, jointly and severally, for any amounts of said judgment which is unpaid by the sale of the vessel; and that this Court award any other amount and grant other relief that justice may require.

RESPECTFULLY SUBMITTED:

By: /s/Twain Braden

Twain Braden, Esq.  
Maine Bar No. 5083  
TWIN BRADEN LAW, LLC  
15 Monument Square  
Portland, Maine 04101  
207-653-6462  
twain@twainbraden.com

ATTORNEY FOR PLAINTIFF

November 20, 2013  
Portland, Maine

VERIFICATION

PERSONALLY APPEARED before me Thomas B. Federle, who, under penalty of perjury, deposes and says:

a) My name is Thomas B. Federle, and I am a resident of Maine and the Plaintiff in this action.

b) I have read the foregoing PLAINTIFF'S VERIFIED COMPLAINT and know the contents thereof and the same are true and correct to the best of my knowledge, except as to the matters therein stated to be on information and belief, and as to those matters I believe them to be true.

c) The sources of my information and the grounds of my belief are my personal knowledge and the documents kept at my office in the ordinary course of its business.

Thomas B. Federle,

By: /s/ Thomas B. Federle

Sworn to and Subscribed  
Before me this 20<sup>th</sup> day  
of November 2013.

/s/Twain Braden (Me. Bar No. 5083)  
Notary Public for MAINE  
My Commission Expires \_\_\_\_\_