

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE
PORTLAND DIVISION
IN ADMIRALTY

THOMAS B. FEDERLE,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action 2013-cv-00437-JAW
)	
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)

JOINT MOTION TO AUTHORIZE PUBLICATION AND JUDICIAL SALE OF
DEFENDANT VESSEL

NOW COME Plaintiff and Defendants in the above-captioned action and jointly move for, (1), an Order to Authorize Publication of Notice of the vessel arrest, (2) an Order Authorizing Judicial Sale of Defendant Vessel; (3), an Order Authorizing Notice of Judicial Sale; and in support thereof shows this Honorable Court as follows:

1. Plaintiff holds a note secured by a preferred ship mortgage on the Defendant Vessel, the Schooner Nathaniel Bowditch.
2. The note and mortgage are in default; Defendant Vessel was seized by United

States Marshals on December 11, 2013.

3. Defendants Cathleen Dorr, Schooner Nathaniel Bowditch Inc., and Schooner Nathaniel Bowditch, LLC, were served by United States Marshals on December 11, 2013.
4. Defendant Owen Dorr was served, by US Mail and accepted by Defendant counsel Patrick Mellor, on December 27, 2013.
5. The vessel has been in custody of Substitute Custodian Ray Williamson since arrest.
6. Defendants have not satisfied the mortgage or otherwise released the vessel from arrest as required by Federal Rules of Civil Procedure and the Supplemental Rules for Admiralty and Maritime Claims.
7. The Defendant Vessel is lying alongside at her berth in Camden, Maine, having been moved from her berth in Rockland, Maine, by Substitute Custodian on January 9, 2014.
8. The vessel has incurred *in custodia legis* expenses while under arrest, including \$6,942 for the month of December at a daily rate of \$185, plus expenses, and continues to accrue expenses at the daily rate, plus expenses.
9. Rule C(4) of the Supplemental Rules of Admiralty requires that publication of arrest be made once in a journal of general circulation within the District within 14 days of arrest, or promptly thereafter.
10. The parties have held discussions about release of the vessel and have agreed that judicial sale of the vessel is the swiftest, most efficient means of resolving

the mortgage default.

11. The *Portland Press Herald* is a newspaper of general circulation within the District.
12. The parties jointly move to post a Notice of Arrest and Sale once in the *Portland Press Herald*, pending authorization of the attached Consent Order.
13. Pursuant to Fed.R.Civ.P., Supplemental Rules for Admiralty C(6), any person who asserts a right of possession or any ownership interest in the Vessel must (a) file with the Court a verified statement of right or interest within fourteen (14) days after publication of the Order and (b) serve an answer upon Plaintiff within twenty-one (21) days after filing said statement of right of interest.
14. Any other person who asserts a claim against the Vessel may file a motion to intervene in this action pursuant to Rule 24, Fed.R.Civ.P.
15. If no such statement of interest is forthcoming, the parties jointly seek to move for judicial sale by United States Marshals Service.
16. Counsel for Plaintiff agrees to offer the vessel for inspection at its berth on Sharp's Wharf, Camden, Maine, prior to judicial sale through its custodian, Ray Williamson, by appointment (telephone: 207-236-2938).
17. Pending approval of this Motion and attached Order, Counsel for Plaintiff has arranged with United States Marshals Office, Portland, for public auction by judicial sale of Defendant Vessel, to the highest bidder, with a minimum bid of \$250,000, to occur on Friday, February 14, 2014, at 1:00pm at Sharp's Wharf, Camden, Maine.

Because a judicial sale is the swiftest and most efficient means of satisfying the terms of the mortgage, and for the reasons aforementioned, Plaintiff moves, with consent of Defendants, for Authorization of Publication of Arrest; Authorization of Notice of Judicial Sale; and Authorization of Judicial Sale.

WHEREFORE, as required by Rule C of the Supplemental Rules for Admiralty or Maritime Claims of the Federal Rules of Civil Procedure, Plaintiff and Defendants jointly move for the above relief.

RESPECTFULLY SUBMITTED:

By: /s/Twain Braden
Twain Braden, Esq.
Maine Bar No. 5083

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January 21, 2014
Portland, Maine

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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I, Twain Braden, attorney for Thomas B. Federle, do hereby certify that on January 21, 2014, I made due service of the above Joint Motion, by electronically filing the same using the Court's CM/ECF system.

/s/ Twain Braden
Twain Braden, Esq.
Maine Bar No. 5083
Attorney for Thomas B. Federle.