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Maritime Arrests and Attachment in the Delaware River and Bay Region of the United States:

Philadelphia & Fairless Hills, Pennsylvania; Wilmington, Delaware the Delaware Bay and Gloucester & Camden, New Jersey.

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Centrally located on the East Coast of the United States, the Delaware River and Bay contains port terminals and facilities for containers, ro/ro, bulk, breakbulk, and liquid bulk. The Delaware River Main Channel, a 102.5-mile stretch of federal navigation channel, from Philadelphia and Camden to the mouth of the Delaware Bay, has been maintained at a depth of 45 ft (14 m). Crude oil has recently been the largest single commodity transported on the Delaware River, accounting for half of all annual cargo tonnage. Major ports and facilities along the river are the Port of Philadelphia, the Port of Camden-Gloucester, the Port of Paulsboro, the Port of Wilmington, and Delaware City Refinery.

Maritime arrest or attachment of vessels pursuant to Rule B or Rule C of the Supplemental Rules for Certain Admiralty and Maritime Claims is a remedy often employed by suppliers of necessities to vessels to obtain security for their payment or by litigants to compel arbitration and obtain security for the outcome of their dispute.

Arresting vessels in the Delaware River and Bay Region is not a difficult procedure to accomplish assuming the firm retained to arrest the vessel has expertise in doing so and is familiar with the local rules and quirks of the United States District Court in which the arrest is being sought. The territorial jurisdiction of the courts in the Delaware River and Bay, however, is a little complicated due to its location between three states. Ports on the Pennsylvania side of the river fall within the Eastern District of Pennsylvania located in Philadelphia. Ports in New Jersey fall within the jurisdiction of the District of New Jersey with court houses in Camden and Trenton, New Jersey. The Delaware Bay and ports falling in Delaware are dealt with in the District of Delaware located in Wilmington.

These courts are all available for filing paperwork and in the proper circumstances obtaining orders, warrants and writs - 24 hours a day, 365 days a year.



The typical documents and pleadings used to effect the arrest in each District, with slight variations, are as follows:

1. Civil Cover Sheet;
2. Summons in a Civil Case (one for each in personam party);
3. Verified Original Complaint (attach an affidavit verifying the factual assertions - prudent to attach materials documents as exhibits);
4. Plaintiff's Motion for Issuance of Summons and Warrant of Arrest;
5. Memorandum in Support of Motion of Order Issuing Warrant for Arrest;
6. Order to Arrest a Vessel;
7. Warrant to Arrest Vessel;
8. U. S. Marshals Service's Process Receipt and Return Form USM-285;
9. Check in the amount of \$400.00 payable to the United States District Clerk for the filing fee; and
10. Check payable to the United States Marshal:
 - 10.1 **Pennsylvania** – typically \$2500 for insurance – the Marshal contemplates that a substitute custodian will be used
 - 10.2 **New Jersey** - \$4000 for vessels more than 65 feet in length overall or \$500 for vessels 65 feet in length overall or less – more will be requested if no substitute custodian is employed
 - 10.3 **Delaware** – typically \$2500 for insurance – the Marshal contemplates that a substitute custodian will be used

Typically, in each District the party seeking the arrest or attachment must deposit with the United States Marshal for the District such sums as may be required by the Marshal as an advance against attachment and custodial costs. The rule may not apply if the seizure is sought pursuant to an order of Court appointing a substitute custodian of the property seized.

To arrest a vessel, she must be at rest either at dock or at an anchorage and her exact location must be known. It is generally a good idea, and a matter of courtesy, to give the Marshal advance notice that a vessel arrest will be filed shortly. Our firm tries to give 24 hours' advance notice, which the Marshal greatly appreciates.



To effect the arrest, a Verified Original Complaint in rem must be filed against the vessel and a \$400.00 filing fee paid. The Civil Intake person filing the complaint will recognize that it is a vessel arrest and will arrange for an immediate ex parte conference with the Magistrate Judge for the District Judge in whose court the complaint is filed or the District Court Judge. The purpose of the meeting with the Judge is to get the Order to Arrest Vessel signed which is required by the Marshal. In this regard, it is a good idea for the attorney who prepared the complaint to walk it through Civil Intake and to attend the meeting with the Judge. The Judges vary greatly in their experience with and knowledge of the supplemental rules and, more times than not, he/she will have questions about the supplemental rules, the case, or the facts giving rise to the claim which only the attorney familiar with the case or his client can answer. The question(s) must be answered before the Judge will sign the arrest order.

Once the Order to Arrest or Attach Vessel has been signed, the original Order goes back to Civil Intake where the District Clerk will make certified copies of the necessary pleadings required by the Marshal. Upon authorization of the court, the clerk will issue a warrant for the arrest of the vessel or other property that is the subject of the action or will issue a Writ of Maritime Attachment or Garnishment which must be delivered to the U.S. Marshal for service.

The next step is to deliver the documents necessary to effect the arrest to the U.S. Marshal, together with the check for the Marshal's costs and the service form. After a review of the pleadings to ensure everything is in order and that the correct number of copies are provided, and after payment of the fees, the Marshal will travel to the location of the vessel specified in the Process Receipt and Return form provided and will arrest the vessel. A copy of the complaint will be served upon the vessel Captain or other person in possession of the vessel. The Marshal will then post a sign in a conspicuous place, on the vessel, usually in the wheelhouse, visible to all stating that the vessel is under arrest. Then the custody is turned over to the substitute custodian. The arrest has now been accomplished.

We typically notify the local ship's agent when the arrest has been completed and efforts to secure her release usually follow promptly thereafter. Here is a checklist of issues to be prepared to address in dealing with the US Marshal.

ADMIRALTY ACTION CHECK LIST

___ PROCESS: Three copies of the court issued documents are required with the USM-285 for the seizure of the vessel. An additional USM-285 is required with the court issued documents for each additional service that is requested (substitute custodian, owner, etc.)

___ Does the warrant provide for the loading/off loading of cargo or for the continuance of repairs?

___ Is it stipulated that the vessel may be moved?

If the last two items are no, all work/movement will cease? _____



___ Estimated value of vessel _____

___ Registry of the vessel _____

___ Are the services of a marine surveyor needed to confirm any dangerous conditions or seaworthiness of the vessel?

___ Is there crew aboard?

How many _____

Nationality _____

___ Is there cargo on board? _____

Value _____

Is it hazardous _____

Is it perishable _____

___ DEPOSIT: An advance deposit of \$ _____ is required for all seizures with an estimated value under 5 million. If value of seizure is greater, a deposit of \$ _____ is required.

___ Substitute Custodians order and affidavit must have hold harmless statement included (if the custodian is self insured, we need the policy number: _____). The policy must be equivalent in both coverage and amount with a minimum of 1 million in Port & Hull coverage).

___ Is the vessel moored or at anchor? _____

If at anchor, the attorney is responsible for providing the necessary transportation to the vessel: name, phone, pickup point _____

Specify: _____

Pursuant to 28 USC 1921 (a) (1) (E) and (A) (2), the U.S. Marshals Service requires plaintiffs in admiralty and maritime cases to purchase legal liability insurance to protect the U.S. Marshals Service when vessels and/or other assets are seized by the U.S. Marshals Service pursuant to these proceedings. Plaintiffs directing the U.S. Marshals Service to seize vessels and/or other assets in admiralty or maritime actions must provide in advance the following insurance. This insurance may be provided by the U.S. Marshals Service's admiralty insurance binder by paying premiums to the U.S. Marshals Service.

1. Legal liability insurance for the U.S. Marshals Service where the U.S. Marshal is the primary custodian of a vessel and/or other assets, OR
2. Contingent liability insurance for the U.S. Marshals Service and legal liability insurance for the court-appointed Substitute Custodian where the Substitute Custodian does not produce an insurance binder establishing that he/she has a minimum of \$1,000,000.00 (one million dollars) in Port & Hull insurance coverage, OR
3. Contingent liability insurance for the U.S. Marshals Service where the court appointed Substitute Custodian produces an insurance binder establishing that he/she has a minimum of \$1,000,000.00 (one million dollars) in Port & Hull insurance coverage.



In each case, the rate of coverage is based upon the value of the vessel(s) and/or assets seized, with a minimum coverage of \$1,000,000.00 (one million dollars).

HELPFUL LOCAL DELAWARE RIVER AND BAY RESOURCES:

Maritime Exchange for the Delaware River & Bay
www.maritimedelriv.com

The Maritime Exchange for the Delaware River and Bay, a not-for-profit trade association, is dedicated to promoting and encouraging commerce on the Delaware River and Bay. The website has a directory of members that is useful in tracking down local service providers and authorities.

The Port of Philadelphia
<http://www.philaport.com/>

The Port of Philadelphia, is an independent agency of the Commonwealth of Pennsylvania charged with the management, maintenance, marketing, and promotion of port facilities along the Delaware River in Pennsylvania, as well as strategic planning throughout the port district. PhilaPort works with its terminal operators to improve its facilities and to market those facilities to prospective port users around the world. Port cargoes and the activities they generate are responsible for thousands of direct and indirect jobs in the Philadelphia area and throughout Pennsylvania. The website has a useful feature that identifies every ship in port and where is located as indicated on a map.

Delaware River and Bay Authority
<http://www.drba.net/>

The Delaware River and Bay Authority or DRBA is a bi-state government agency of the U.S. states of New Jersey and Delaware. The authority operates the Delaware Memorial twin suspension bridges, the Cape May-Lewes Ferry between Cape May, New Jersey, and Lewes, Delaware, the Forts Ferry Crossing and the Salem County Business Center.

A handwritten signature in black ink, appearing to read 'Gary Seitz', is written over the typed name and title.

Gary F. Seitz
Managing Member