

Federal Court



Cour fédérale

Date: 20260320

Docket: T-101-24

Citation: 2026 FC 378

Ottawa, Ontario, March 20, 2026

PRESENT: The Honourable Madam Justice Heneghan

ADMIRALTY ACTION *IN REM* AND *IN PERSONAM*

BETWEEN:

THE ADMINISTRATOR OF THE SHIP-SOURCE OIL POLLUTION FUND

Plaintiff

and

THE OWNERS AND ALL THOSE INTERESTED IN THE SHIP

CHARLOTTE A. FINN;

and

DANIEL FRANCIS MACNEIL

Defendants

REASONS AND JUDGMENT

I. INTRODUCTION

[1] By a notice of motion dated November 5, 2025 and submitted for consideration without personal appearance pursuant to Rule 369 of the *Federal Courts Rules*, SOR/ 98-106 (the “Rules”), the Administrator of the Ship-Source Oil Pollution Fund (the “Administrator” or the “Plaintiff”) seeks the entry of Judgment against Mr. Daniel Francis MacNeil.

II. CONTEXT

[2] The Administrator is appointed pursuant to section 91 of the *Marine Liability Act*, S.C. 2001, c. 6 (the “Act”). In that capacity, the Administrator administers the Ship-Source Oil Pollution Fund (the “Fund”), according to the powers set out in the Act, including the right to sue for the recovery of claims that are paid by the Fund in respect of oil pollution.

[3] The motion is supported by the affidavit of Mr. Ryan Gauvin, sworn on November 4, 2025. Mr. Gauvin is employed as a lawyer by the Plaintiff. In his affidavit, he set out the history of this action. He attached a number of exhibits to his affidavit, including a report detailing the work done and the costs of that work and material.

[4] The Administrator received a claim from the Canadian Coast Guard on January 5, 2023, seeking recovery of expenses relating to the clean-up and containment of oil discharged from the fishing vessel “Hydra Mariner” at Wright’s Cove, Nova Scotia. The discharge occurred on or about January 17, 2021. The initial claim was in the amount of \$2,543,803.16.

[5] Mr. Gauvin deposed that the claim was paid by the Administrator on April 22, 2025, in the amount of \$1,339,930.08. The Administrator also paid out the amount of \$302,170.88 as statutory interest pursuant to section 116 of the Act.

[6] The Administrator commenced his action against the “Owners and All Others Interested” in the vessel “Charlotte A. Finn” and against Mr. MacNeil as the owner of the “Hydra Mariner”. The Plaintiff also alleges that Mr. MacNeil is the owner of the ship “Charlotte A. Finn”.

[7] The statement of claim was issued on January 15, 2024. It was amended as of April 17, 2025 to reflect a change in the amount claimed by the Plaintiff.

[8] By Order issued on April 28, 2025, Associate Judge Molgat validated service of the statement of claim as of on or before May 31, 2024. The Order provided that the time limited for filing a defence would run from the date of that Order.

[9] Rule 204(1)(a) provides that when a statement of claim is served in Canada or the United States, a statement of defence shall be filed within 30 days of service of the statement of claim.

[10] A solicitor’s certificate of service was filed showing service of the amended statement of claim upon Mr. MacNeil by mail that was sent on April 22, 2025.

[11] The statement of claim alleges that the Hydra Mariner was involved in an oil pollution incident on or about January 17, 2021.

[12] Mr. Gauvin deposed that the statutory mandate of the Administrator includes the compensation of expenses incurred relative to ship-source oil pollution incidents and the right to recover the compensation through a statutory right to subrogation after payment of a claim.

[13] Mr. Gauvin deposed as to steps taken to contain the oil pollution threat and the work undertaken by the Coast Guard. He deposed that on January 5, 2023, the Coast Guard submitted a claim for compensation in the amount of \$2,543,803.16 for its costs and expenses. The claim was submitted pursuant to section 103 of the Act. An extract of the claim is attached as an exhibit to the affidavit of Mr. Gauvin.

[14] Following review of the claim submitted by the Coast Guard, the Administrator determined that the Coast Guard was entitled to compensation in the amount of \$1,339,930.08, together with statutory interest pursuant to section 116 of the Act.

[15] Mr. Gauvin deposed that by letter dated February 14, 2025, the Administrator offered the sum of \$1,339,930.08, together with statutory interest, to the Coast Guard in respect of its expenses in dealing with the oil pollution threat from the Ship.

[16] Mr. Gauvin deposed that by letter dated April 10, 2025, the Coast Guard accepted the offer.

[17] Mr. Gauvin further deposed that the amount of \$1,642,100.96, including statutory interest in the amount of \$302,170.88, was paid to the Coast Guard on April 22, 2025.

[18] Mr. Gauvin deposed that the Coast Guard advised Mr. MacNeil, as the Owner of the Ship, of his potential liability in respect of the oil pollution threat and clean-up.

[19] The report attached as Exhibit A to the affidavit of Mr. Gauvin refers to communication from a Coast Guard duty officer with Mr. MacNeil, apparently on the day of the incident. This report also notes that Mr. MacNeil attended the site and boarded the “Hydra Mariner”.

[20] As well, the report notes that on January 18, 2021, Mr. MacNeil presented a plan about removal of the “Hydra Mariner”. The report also refers to delivery of a “Notice of Intent” to Mr. MacNeil by email.

[21] Mr. Gauvin deposed that on February 10, 2021 he obtained a transcript of registration from Transport Canada with respect to the ownership of the Ship. He obtained an updated transcript on October 17, 2025. He deposed that the transcripts show that Mr. MacNeil became the sole registered owner of the Ship on February 25, 2016 and remained the registered owner until registration was suspended on March 20, 2025.

[22] Mr. Gauvin deposed that he spoke with Mr. MacNeil on the telephone on May 16, 2025 and that Mr. MacNeil acknowledged his ownership of the Ship in January 2021, at the time of the grounding.

[23] Mr. Gauvin also deposed that on August 6, 2025, he received an email from Mr. Luke Hunter, a lawyer with Metcalf and Company in Halifax, Nova Scotia, advising that the law firm of Metcalf and Company had been retained to represent Mr. MacNeil.

[24] Mr. Gauvin deposed that he received a letter dated August 25, 2025 from Mr. Hunter addressing the circumstances in which Mr. MacNeil acquired ownership of the “Hydra Mariner”, that is in satisfaction of a debt owed to him by the former owner.

[25] Mr. Gauvin deposed that as of the date of his affidavit, that is November 4, 2025, no defence had been filed by Mr. MacNeil.

[26] A review of the Index of Recorded Entries shows that no defence has been filed by Mr. MacNeil or any of the Defendants. Indeed, the Index of Recorded Entries shows that the amended statement of claim was only served on Mr. MacNeil. This is effectively an action *in personam* against Mr. MacNeil only, as the owner of the “Hydra Mariner”.

[27] Accordingly, the question is whether the Administrator has shown that default judgment should be entered against Mr. MacNeil.

III. DISCUSSION AND DISPOSITION

[28] The entry of default judgment is a discretionary decision of the Court; see *Trimble Solutions Corporation v. Quantum Dynamics Inc.*, 2021 FC 63 at paragraph 36.

[29] The Court has recognized a two part test for the delivery of default judgment: is the defendant in default of filing a defence and has the plaintiff provided evidence, on the balance of probabilities, to establish its claim. In this regard, I refer to the decision in *Chase Manhattan Corp. v. 3133559 Canada Inc.*, 2001 FCT 895.

[30] Although the Plaintiff commenced an action *in personam* and *in rem*, naming the ship “Charlotte A. Finn” as a Defendant, there is no evidence that the statement of claim or amended statement of claim was served on the ship “Charlotte A. Finn”. Considering the time limit set out in Rule 203 for service of a statement of claim, that is sixty (60) days, it is questionable whether the action against that Defendant remains viable.

[31] The Plaintiff chose to sue the “Charlotte A. Finn”, as a sister ship of the “Hydra Mariner”, pursuant to subsection 43(8) of the *Federal Courts Act*, R.S.C. 1985, c. F-7. That subsection provides as follows:

Arrest

(8) The jurisdiction conferred on the Federal Court by section 22 may be exercised in rem against any ship that, at the time the action is brought, is owned by the beneficial owner of the ship that is the subject of the action.

Saisie de navire

(8) La compétence de la Cour fédérale peut, aux termes de l'article 22, être exercée en matière réelle à l'égard de tout navire qui, au moment où l'action est intentée, appartient au véritable propriétaire du navire en cause dans l'action.

[32] The amended statement of claim refers to the “Charlotte A. Finn” in paragraphs 11, 12, 14 and 34, as follow:

The FV Charlotte A. Finn

11. The other ship at issue in this case is the Charlotte A. Finn, a 25.73-metre fishing vessel of steel construction and 171.17 gross tons.

12. The Charlotte A. Finn is registered with Transport Canada under the official number 323545.

...

14. Mr. MacNeil is also the registered owner of the Charlotte A. Finn.

...

34. The Plaintiff pleads that the Charlotte A. Finn is, for the purposes of this action, a sister ship to the Hydra Mariner.

[33] In the written representations filed in support of his motion for default judgment, the Plaintiff makes passing reference to the *in rem* jurisdiction in respect of sister-ships, at paragraphs 29 and 30, as follow:

29. Subsection 43(8) of the Federal Courts Act, RSC, 1985, c F-7 extends in rem jurisdiction to sister ships. For the purposes of that provision, sister ships are vessels that, at the time an action is commenced, are owned by the same entities that are the beneficial owners of the vessel that is the subject of the action.

30. The Plaintiff pleads that the *Charlotte A. Finn* is, for the purposes of this action, a sister ship to the *Hydra Mariner*.

[34] The Plaintiff’s reliance on subsection 43(8) of the *Federal Courts Act*, *supra* in this motion for default judgment is puzzling. The present motion does not seek judgment against the

ship “Charlotte A. Finn”, and there is no evidence that that Defendant was served at any time, by either the original statement of claim or the amended statement of claim.

[35] In its decision in *Westshore Terminals Limited Partnership v. Leo Ocean, S.A.*, [2015], 3 F.C.R. 712 (F.C.A.), at paragraph 65 the Court commented upon the “activation” of *in rem* jurisdiction as follows:

[65] It should be borne in mind that until a ship is served with the statement of claim *in rem* and is arrested (inevitably the service of the action and the arrest of the ship occur simultaneously), the Court’s jurisdiction *in rem* is not exercised.

...

[36] The sister-ship jurisdiction is an *in rem* jurisdiction.

[37] The within motion concerns only Mr. MacNeil.

[38] Has the Plaintiff met the second part of the test for the grant of default judgment, that is proof on the balance of probabilities that his claim is made out?

[39] Paragraph 13 of the amended statement of claim provides as follows:

13. The Defendant Daniel Francis MacNeil is the registered owner of the Hydra Mariner. He was the registered owner of that vessel the Hydra Mariner at all times relevant to this action.

[40] Section 91 of the Act defines “owner” as follows:

owner	propriétaire
<p>(a) in relation to a ship subject to the Civil Liability Convention, has the same meaning as in Article I of that Convention;</p>	<p>a) S’agissant d’un navire assujetti à la Convention sur la responsabilité civile, s’entend au sens de l’article premier de cette convention;</p>
<p>(b) in relation to a ship subject to the Bunkers Convention, has the same meaning as the definition Shipowner in Article 1 of that Convention; and</p>	<p>b) s’agissant d’un navire assujetti à la Convention sur les hydrocarbures de soute, s’entend au sens de propriétaire du navire à l’article 1 de cette convention;</p>
<p>(c) in relation to any other ship, means the person who has for the time being, either by law or by contract, the rights of the owner of the ship with respect to its possession and use. (propriétaire)</p>	<p>c) s’agissant de tout autre navire, s’entend de la personne qui a, au moment considéré, en vertu de la loi ou d’un contrat, les droits du propriétaire du navire en ce qui a trait à la possession et à l’usage de celui-ci. (owner)</p>

[41] Section 77 of the Act imposes liability upon a shipowner for oil pollution damage.

Paragraphs 77(1)(a) and (b), and subparagraph 77(1)(c)(i) are relevant and provide as follow:

Liability for pollution and related costs	Responsabilité en matière de pollution et frais connexes
<p>77 (1) The owner of a ship is liable</p> <p>(a) for oil pollution damage from the ship, including economic loss in relation to the exercise of fishing, hunting, trapping or harvesting rights recognized and affirmed by section 35 of the <i>Constitution Act, 1982</i> suffered by an Indigenous group, community or people that holds those rights or suffered by a member of such a group, community or people;</p> <p>(b) for the costs and expenses incurred by the Minister of Fisheries and Oceans,</p>	<p>77 (1) Le propriétaire d’un navire est responsable :</p> <p>a) des dommages dus à la pollution par les hydrocarbures causée par le navire, notamment le préjudice économique lié à l’exercice des droits de pêche, de chasse, de piégeage, de cueillette ou de récolte reconnus et confirmés par l’article 35 de la <i>Loi constitutionnelle de 1982</i> subi par un groupe, une collectivité ou un peuple autochtones titulaires de ces droits ou par le membre</p>

- a response organization within the meaning of section 165 of the *Canada Shipping Act, 2001* or any other person in Canada in respect of measures taken to prevent, repair, remedy or minimize oil pollution damage from the ship, including measures taken in anticipation of a discharge of oil from it, to the extent that the measures taken and the costs and expenses are reasonable, and for any loss or damage caused by those measures; and
- (c) in relation to pollutants, for the costs and expenses incurred by
- (i) the Minister of Fisheries and Oceans in respect of measures taken under paragraph 180(1)(a) of the *Canada Shipping Act, 2001*, in respect of any monitoring under paragraph 180(1)(b) of that Act or in relation to any direction given under paragraph 180(1)(c) of that Act to the extent that the measures taken and the costs and expenses are reasonable, and for any loss or damage caused by those measures...
- d'un tel groupe, d'une telle collectivité ou d'un tel peuple;
- b) des frais supportés par le ministre des Pêches et des Océans, un organisme d'intervention au sens de l'article 165 de la Loi de 2001 sur la marine marchande du Canada ou toute autre personne au Canada pour la prise de mesures visant à prévenir, contrer, réparer ou réduire au minimum les dommages dus à la pollution par les hydrocarbures causée par le navire, y compris des mesures en prévision de rejets d'hydrocarbures causés par le navire, pour autant que ces frais et ces mesures soient raisonnables, de même que des pertes ou dommages causés par ces mesures;
- c) s'agissant des polluants, des frais supportés par le ministre des Pêches et des Océans à l'égard des mesures visées à l'alinéa 180(1)a) de la *Loi de 2001 sur la marine marchande du Canada*, de la surveillance prévue à l'alinéa 180(1)b) de cette loi ou des ordres visés à l'alinéa 180(1)c) de la même loi et des frais supportés par toute autre personne à l'égard des mesures qu'il lui a été ordonné ou interdit de prendre aux termes de ce même alinéa, pour autant que ces frais et ces mesures soient raisonnables, de même que des pertes ou dommages causés par ces mesures.

[42] I am satisfied that the Plaintiff has established that Mr. MacNeil was the “owner” of the “Hydra Mariner” at the time of the incident. The copies of the transcripts of registry from Transport Canada, attached to the affidavit of Mr. Gauvin, are evidence of ownership.

[43] I am also satisfied that the Plaintiff has shown that clean up work was done, as set out in Exhibit A to the affidavit of Mr. Gauvin.

[44] I am satisfied that an offer of compensation was made to the Coast Guard, that it was accepted, and that payment was made in the amount of \$1,642,100.96, thereby giving rise to a subrogated claim on the part of the Plaintiff, pursuant to paragraph 106(3)(c) of the Act. That paragraph provides as follows:

Acceptance of offer by claimant

(3) If a claimant accepts the offer of compensation from the Administrator,

...

(c) the Administrator is, to the extent of the payment to the claimant, subrogated to any rights of the claimant referred to in paragraph (b); and

Acceptation de l'offre

(3) L'acceptation par le demandeur de l'offre d'indemnité entraîne les conséquences suivantes :

...

c) dans la limite de la somme versée au demandeur, l'administrateur est subrogé dans les droits de celui-ci visés à l'alinéa b);

[45] In the written representations filed in support of this motion, the Administrator said that interest has accrued upon the initial payment made on April 22, 2025. The accrual of interest is authorized by section 116 of the Act. Accrued interest between April 22, 2025 and November 5, 2025 is said to be \$38,692.78.

[46] The Administrator seeks recovery of this amount and daily interest in the amount of \$183.55 until payment of the claim.

IV. CONCLUSION

[47] On the basis of the evidence submitted, the lack of a defence, the applicable legislation and the test for granting default judgment, I am satisfied that the Plaintiff has shown that judgment should be entered.

[48] The Plaintiff does not seek costs and none will be awarded. That position is appropriate, considering my comments above about the invocation of subsection 43(8) of the *Federal Courts Act, supra*.

JUDGMENT in T-101-24

THIS COURT’S JUDGMENT is that:

1. The Plaintiff’s motion for default judgment is granted and judgment is entered against the Defendant Daniel Francis MacNeil in the amount of \$1,680,793.74, being the amount of the principal claim and interest owing as of November 5, 2025.
2. Interest will accrue on the principal amount at the rate established pursuant to section 116 of the *Marine Liability Act*, S.C. 2001, c. 6.
3. No costs were sought and none will be awarded.

“E. Heneghan”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-101-24

STYLE OF CAUSE: THE ADMINISTRATOR OF THE SHIP-SOURCE OIL
POLLUTION FUND v. THE OWNERS AND ALL
THOSE INTERESTED IN THE SHIP CHARLOTTE A.
FINN; and DANIEL FRANCIS MACNEIL

**MOTION IN WRITING
PURSUANT TO RULE 369
OF THE FEDERAL
COURTS RULES
CONSIDERED AT:** OTTAWA, ONTARIO

REASONS AND JUDGMENT: HENEGHAN J.

DATED: MARCH 20, 2026

WRITTEN REPRESENTATIONS BY:

Cameron Grant

FOR THE PLAINTIFF

SOLICITORS OF RECORD:

Ship Fund Ship and Rail
Compensation Canada
Ottawa, Ontario

FOR THE PLAINTIFF