



# SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



## Ruling Awaited on Titanic Hull Application

A salvage company's application to penetrate the hull of the RMS Titanic wreck for the first time is currently being decided by the United States District Court for the Eastern District of Virginia.

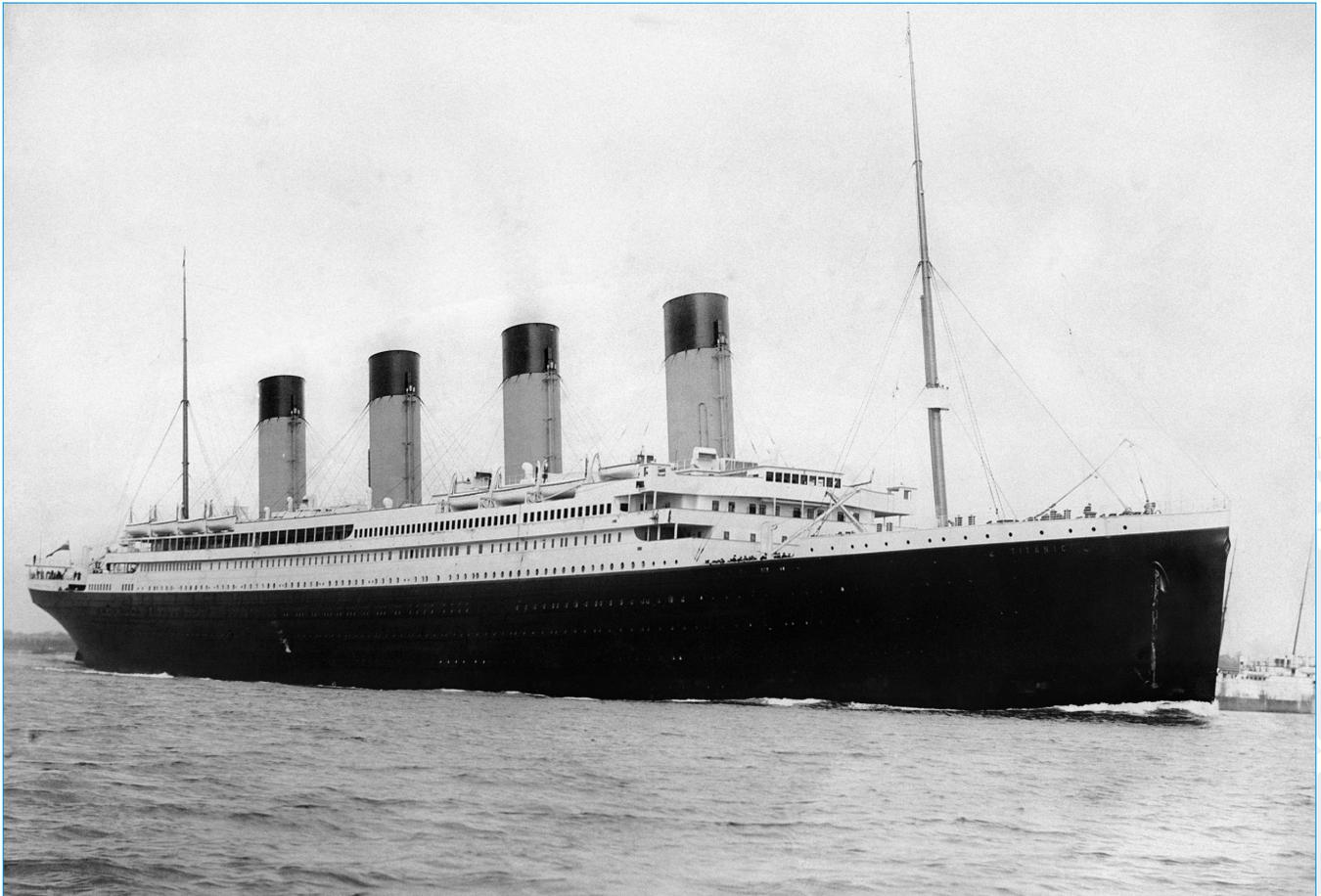
The applicant argues there is historic merit in retrieving the Marconi wireless telegraph used to send the distress signals that broadcast the fate of the "unsinkable ship".

Those calls began around 10.25pm ET on April 14, 1912 and, although over 1500 passengers and crew perished in the disaster, they summoned ships that rescued about 700 people.

However, counter arguments have been raised to preserve the wreck as the grave of the souls who perished in the disaster.

Judge Rebecca Beach Smith, the District Court senior judge, heard the application from the salvage company RMS Titanic Inc (RMST) in late February.

RMST has exclusive rights to salvage artefacts from the Titanic and its proposal would require the company to remove a part of the ship's deckhouse to access the Marconi Suite where the radio is located.



*RMS Titanic departing Southampton on April 10, 1912*

The company argued in a court document that little was known about the most famous radio in history and that it should be recovered before conditions deteriorated further and it was lost. It cited a report saying that large sections of the deckhouse have collapsed since 2005.

Resistance has come from the National Oceanic and Atmospheric Administration (NOAA), which represents the public's interest in the wreck site. Its lawyers argued in court documents that the proposed retrieval runs contrary to prior court orders that prohibit the firm from cutting holes or taking items from the wreck.

Two Irishmen – an international maritime expert and a barrister – have also asked the court to refuse the application.

Michael Kingston, a consultant to the International Maritime Organization, and barrister Ciarán McCarthy argue the wreck should be considered a gravesite where many Irish are buried.

They are hoping to see the United States extend the same respects to the Titanic as Ireland has to the RMS Lusitania. Ireland has in place a preservation order on the Lusitania, which prohibits any penetration of the wreck as it is a gravesite where 128 United States citizens died.

In a letter to the court, Mr Kingston asked for RMST's application to be rejected on the basis that no proper consultation had taken place with Ireland's "interests as a Nation". This was particularly because of the need to consider the families of those who died, but also the ship's other close connections with Ireland – particularly in Cork, the ship's last port of call – and Belfast, where it was built.

Mr Kingston asked the court to adjudicate in favour of further consultation or alternatively that the hearing be adjourned indefinitely until discussions have occurred, and Ireland as a Nation (and others) have had time to explain their interests and sensitivities.

Mr McCarthy, guest lecturer in maritime law at University College Cork, guest lecturer in maritime law at the United Nations Convention on Trade and Development and lecturer at the National Maritime College of Ireland, has lent his support for Mr Kingston and countersigned his letter to the United States District Court.

He commented that the proposal is in clear defiance of the recently ratified, Agreement Concerning the Shipwrecked Vessel RMS Titanic, and that the opening of a grave to recover items should be strenuously opposed in the absence of clear scientific or investigative motivation ... "as opposed to the ghoulish recovery of artefacts for commercial gain."

Judge Beach Smith reserved her decision, saying she needed more details and proposed scheduling another hearing in the future.

The Titanic rests about 3700 metres below the surface of the North Atlantic Ocean 600 kilometres off the coast of Canada's Newfoundland province.

A recent expedition by Triton Submarines, whose manned submersible made a total of five dives over an eight-day period, confirmed that decay is advancing, with salt corrosion, metal-eating bacteria and deep current action having the greatest impact on the wreck.

During the expedition, the team performed dedicated photogrammetry passes on the wreck that will allow highly-accurate and photo-real 3D models of the Titanic, making it possible to visualise the wreck using augmented reality and virtual reality technology.

The full results from Triton's expedition will be published alongside a documentary film being made by Atlantic Productions London.

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