



# SEMAPHORE

Newsletter of the Maritime Law

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## *GeelongPort Pty Limited v The Ship “Voyager P”* [2023] FCA 918

In this case, the Court drew on other recent Federal Court decisions on the sale of vessels *pendente lite*, as well as the movement of a vessel under arrest.

On 13 July 2023, GeelongPort Pty Limited (the Plaintiff), which operated the Port of Geelong according to the Port Management Act 1995 (Vic), commenced proceedings in rem against the ship Voyager P (the Vessel) for outstanding berthing fees, which were continuing to accrue. An affidavit sworn by the Plaintiff’s solicitor in support of the arrest deposed that RJ Fishing was the registered owner of the Vessel. The Vessel was arrested on 14 July 2023.

The Court considered the principles applicable to an application for sale *pendente lite*, referring to the Federal Court’s judgment in *Dan-Bunkering (Singapore) Pte Ltd v The Ship Yangtze Fortune* [2022] FCA 1556. With reference to that judgment, it was significant in this case that the Vessel seemed to have been abandoned. The Plaintiff had been unable to contact the owner of the Vessel either before or since the arrest. The defendant failed to file an appearance, and no application was made to set aside the sale orders.

The Court also determined that “considerations of convenience, or practicality, and cost” weighed in favour of having the marshal move the Vessel to the northern side of the Bulk Grain Berth, as suggested by the Plaintiff, despite the Vessel remaining under arrest. On this point, the Court referred to the case *Viva Energy Australia Pty Ltd v MT “AG Neptune”* [2022] FCA 522.

The Court ordered the Vessel be sold by the marshal under the Admiralty Rules 1988 (Cth), with the method of sale to be determined by the Court, and that the Vessel be repositioned as soon as practicable to the northern side of the Bulk Grain Berth (or at such other location as the marshal might determine) and remain there until further order of the Court.

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