Federal Court Cour fédérale

Date: 20180116

Docket: T-1698-16

Citation: 2018 FC 39

Ottawa, Ontario, January 16, 2018

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

THE ADMINISTRATOR OF THE SHIP-SOURCE OIL POLLUTION FUND

Plaintiff

and

ROBIN BEASSE

Defendant

AND BETWEEN:

ROBIN BEASSE

Plaintiff by Counterclaim

and

HER MAJESTY THE QUEEN IN RIGHT OF CANADA, SQUAMISH MARINE SERVICE LTD. AND CHRIS TAMBURRI

Defendants by Counterclaim

and

VALLEY TOWING LIMITED

Third Party

JUDGMENT AND REASONS

[1] This is the Plaintiff's motion for summary judgment and expenses incurred during a pollution clean-up, due to the sinking of a tugboat near Squamish, British Columbia, in the amount of $82,512.70, plus pre-judgment and post-judgment interest at 3% from January 14, 2014, to the date of payment, pursuant to Rules 213, 216 and 218 of the *Federal Courts Rules*, SOR/98-106 [*Federal Courts Rules*] and sections 77, 103, 105, 106 and 116 of the *Marine Liability Act*, SC 2001, c 6 [*MLA*].

I. Background

[2] The tugboat "Elf" (the "Tug") was built in 1902 and registered in the United States, but never registered in Canada. It was purchased in October, 2012, by Christine Beasse, wife of the Defendant Robin Beasse, and subsequently purchased by the Defendant from his wife.

[3] In January 2014, the Tug was moved alongside a barge, owned by Mr. Steen Larken, in Mamquam Blind Channel, Squamish, British Columbia.

[4] The Tug sank on January 14, 2014, and caused pollution (the "First Sinking"). The Defendant became aware of the sinking that morning. He had not seen the Tug for between seven to fourteen days prior to the sinking.

[5] At the time of the First Sinking, there was no electrical connection to shore power.

[6] The Canadian Coast Guard ("CCG") was notified of the First Sinking early in the morning of January 14, 2014, and responded to deal with pollution from the Tug. They placed a boom around where the oil was upwelling from the sunken Tug and applied absorbent pads inside the boom.

[7] Although the Defendant knew on January 14, 2014, that the Tug had sunk, was aware that there were two large fuel tanks in the Tug and knew it had caused pollution, he did not respond on that day to address the pollution, as the CCG was dealing with the oil spill and he had no experience or equipment to deal with it.

[8] The CCG advised Mr. Larsen that all pollution remediation costs would be the responsibility of the owner of the Tug. Notwithstanding the Defendant's ownership of the Tug, Mr. Larsen misrepresented to the CCG that he owned the Tug.

[9] Mr. Larsen was advised that there would be meetings every evening to discuss efforts to deal with pollution. He attended the first meeting on January 14, 2014, but left the meeting after advising that he would not have divers available on January 15, 2014.

[10] On January 15, 2014, the Defendant met with Mr. Philip Murdock of the CCG at the site of the sinking but did not identify himself as the owner of the Tug. He left it to the CCG to deal with the pollution rising from the Tug.

[11] Mr. Larsen told the CCG that he and the Defendant were not going to hire a contractor to clean-up the oil. Subsequently, neither the Defendant nor anyone representing him did anything in respect of cleaning-up the oil or dealing with the consequences of that pollution.

[12] As the person whom they believed at that time to be the owner (Mr. Larsen) was doing nothing about the pollution, the CCG retained divers and a barge with a large crane aboard (the “Delcat”) to attend from Vancouver to lift the Tug on January 16, 2014. The barge arrived in the morning of January 16, 2014; the divers placed slings around the Tug and prepared to lift the Tug.

[13] Subsequent to the CCG preparing to lift the Tug, the Defendant and Mr. Larsen tried to convince the CCG to stop the lift; however, given that all arrangements to lift the Tug were completed, the CCG proceeded with the lift and then dewatered the Tug. At no time did Mr. Larsen, or anyone acting on their behalf, do anything to contain, minimize, or clean-up the pollution from the Tug.

[14] The Defendant has raised the sole defence that the small aft door (the “Door”) to the superstructure on the Tug was torn off its hinges and that this is evidence that a third party broke

into the Tug and caused the sinking. However, the Defendant also admitted that removal of the Door would not have caused the sinking.

[15] Very shortly after the Tug was raised, the Door was taken by the Defendant and Mr. Larsen and wasn't altered before it was delivered to Mr. J. Spears, who was then the lawyer for the Defendant.

[16] The Door was produced by Mr. Spears for inspection by all parties on May 17, 2017. It was undamaged except for one hinge. The deadbolt locking mechanism of the Door was retracted or unlocked. The hasp on the hatch above the Door, which can be locked down to the staple on the Door, was intact, as was the staple on the Door.

[17] The divers inspected the hull before and after the Tug was raised and could find no reason for the sinking. After the Tug was raised and dewatered, it was inspected by Mr. J. Small, a surveyor on behalf of the CCG, by Mr. D. Holonko, a surveyor on behalf of the Plaintiff, and by the Defendant and Mr. Larsen. None of the parties inspecting the hull found damage to the hull or any other reason the Tug sank.

[18] The Defendant was aware that the superstructure around the Door was seriously rotted.

[19] After the Tug was inspected by all parties at Mamquam Blind Channel, it was towed a short distance to Watts Point (Shannon Falls) where it was again inspected by Mr. Holonko and a

representative of the CCG, neither of whom could ascertain any damage to the hull or ingress of water that caused the sinking.

[20] After the Tug remained at Watts Point, it was towed behind the Delcat to a location just off Point Atkinson, where it was handed over to another tugboat operated by Valley Towing Ltd. (“Valley”). At the time of the handover, on January 17, 2014, the Tug appeared to be floating normally and there was no indication of ingress of water.

[21] Shortly after the Tug was handed over to Valley, it sank rapidly into deep water (the “Second Sinking”).

[22] Mr. Holonko opined that both the First and Second Sinking were caused by the failure of fastenings, or the failure of the wood around the fastenings, allowing a plank on the hull to spring open.

[23] The Plaintiff and the CCG’s position is that the First Sinking occurred spontaneously and given that the *MLA* is a strict liability statute, the only way for the Defendant to avoid liability is to establish on a balance of probabilities that the sinking was caused by the deliberate action of a third party.

[24] The CCG presented a claim for their incurred expenses to the Plaintiff on August 12, 2014. After investigation and assessment of the CCG claim, the Plaintiff paid to the CCG

$82,512.70, plus interest pursuant to section 116 of the *MLA* of $6,190.22, for a total of $88,702.92, on August 4, 2016.

[25] Since August 4, 2016, the further interest to October 31, 2017, amounts to $3,299.70, with interest from November 1, 2017, at 3% or $7.29 per day.

[26] The Defendant argues that this is not an appropriate case for a summary trial, due to the circumstances of the Second Sinking. While the investigation was at its early stages, the evidence was under the care and control of the agency under which the Plaintiff seeks to make its subrogated claim, and was lost under circumstances such that a trial Judge should consider an appropriate remedy to assist the Defendant, due to that loss of evidence by the Plaintiff. The Defendant's position is that the Plaintiff took no action to raise the Tug after the Second Sinking.

[27] Moreover, the Defendant argues that the divers who did the first inspection of the Tug were not produced. It is the Defendant's position that the Plaintiff failed to submit critical evidence from the "riding crew" of the Tug from Squamish to the point where the standby pumps were unmanned.

[28] Finally, the Defendant states that the evidence relied upon by the Plaintiff is speculative and not based on actual physical evidence. Relying solely on the expert report based on speculation with respect to the cause of the First Sinking of the Tug, when it is admitted that there was no obvious cause apparent after the Tug was first lifted, should not give rise to a strict liability offence being decided without a full trial on the merits.

II. Issues

A. Is a summary trial appropriate under Rule 216 of the *Federal Courts Rules*?

B. Should summary judgement be granted?

III. Analysis

A. *Summary Trial*

[29] The relevant provisions of the *MLA* are attached as Appendix 1 hereto. Rule 216(6) of the *Federal Courts Rules* provides:

> If the Court is satisfied that there is sufficient evidence for adjudication, regardless of the amounts involved, the complexities of the issues and the existence of conflicting evidence, the Court may grant judgment either generally or on an issue, unless the Court is of the opinion that it would be unjust to decide the issues on the motion.

[30] This Court has confirmed that the application of relevant British Columbia jurisprudence concerning Rule 18A of the former British Columbia *Supreme Court Rules*, BC Reg 221/90, upon which Rules 213 and 216 of the *Federal Courts Rules* are based, is instructive (*0871768 BC Ltd v Aestival (Vessel)*, 2014 FC 1047 at paras 57 to 61; *Louis Vuitton Malletier SA v Singga Enterprises (Canada) Inc*, 2011 FC 776 at paras 92 to 98).

[31] The Court should consider that:

i) The moving party has met its burden to demonstrate summary trial is appropriate;

ii) The issues to be decided are well-defined and the facts necessary to resolve the issues are clearly set out in the evidence;

iii) Even if there is/are genuine issues for trial and no serious credibility issues, the issues can be decided if the motion judge finds that there is nevertheless sufficient evidence to decide the matter(s) either generally or on an issue, unless it would be unjust to do so;

iv) The parties are obliged to put their best foot forward (Rule 214) and if a party fails to do so, it does not frustrate the ability of the Court to proceed by way of summary trial; and

v) The summary judgment rules should be interpreted broadly.

[32] The parties generally agree that the background facts are not in dispute, other than the one key issue of what caused the First Sinking, and whether the facts surrounding the Second Sinking are in some way relevant in determining third-party liability under subsection 77(3)(b) of the *MLA*. Subsection 77(3)(b) of the *MLA* provides that if the Defendant can establish that the sinking and resulting pollution was caused by an act or omission of a third party, with intent to cause damage, he may be excused from liability.

[33] The only evidence provided by the Defendant with respect to possible third-party liability is the fact that when the Tug was raised after the First Sinking, the Door was torn off its hinges and a pad lock was allegedly missing, which the Defendant argues suggests sabotage by a third party.

[34] Moreover, the Defendant's evidence is that:

i) Mr. Larsen had regularly been looking after the vessel and had been attending on a number of occasions to make sure the batteries were charged. He was last on board the Tug within days of its sinking. The Tug has an extensive power system for the bilge pumps onboard the vessel, which could be charged without further maintenance for up to

two weeks. Mr. Larsen had been on board the vessel within 2 to 5 days of its sinking and everything was in working order. He last saw the vessel approximately a day before it sank when he was walking along the channel. He saw the Tug from a distance and it was its regular proper trim.

ii) Mr. Larsen believed that the sinking of the Tug was caused by the actions of a third party, due to an ongoing controversy he had been involved in with Chris Tamburri, now deceased, who was a principal of Squamish Towing Inc.

iii) The Defendant believed that if he inspected the vessel in a proper manner, evidence would be found to determine causation of the sinking to be by third party. He did not believe the sinking of the Tug was spontaneous.

iv) Mr. Larsen described the Tug as having a stern entry to the engine room on the starboard side, as depicted in the photograph marked as Exhibit A to his affidavit. The door was locked together to prevent entry and was in good condition. Mr. Larsen believed that the engine room door had been compromised, the bilge pump system was shut off and the Tug was scuttled by a third party.

[35] The Defendant argues that given the fact that the Plaintiff lost control of the only evidence to substantiate their case (being the Tug), and the speculative nature of the expert report of Mr. Holonko, it would be an abuse of process of this Court to render summary judgement on this summary trial application.

[36] The Defendant's counsel quoted extensively from the case of *Wire Rope Industries of Canada (1966) Ltd v British Columbia Marine Shipbuilders Ltd*, [1981] 1 SCR 363, at pages 392

and following, and *McDougall v Black & Decker Canada Inc*, 2008 ABCA 353 [*Black & Decker*], to argue that spoliation has occurred, given the loss of the Tug cause by the CCG's reckless actions, and therefore any remedy available to the Plaintiff must be determined after a full trial, where the trial judge can consider all of the facts and fashion the most appropriate response.

[37] However, as stated by the Alberta Court of Appeal in *Black & Decker* at paragraph 18:

> *St. Louis*, therefore, stands for the following proposition. Spoliation in law does not occur merely because evidence has been destroyed. Rather, it occurs where a party has intentionally destroyed evidence relevant to ongoing or contemplated litigation in circumstances where a reasonable inference can be drawn that the evidence was destroyed to affect the litigation. Once this is demonstrated, a presumption arises that the evidence would have been unfavourable to the party destroying it. This presumption is rebuttable by other evidence through which the alleged spoliator proves that his actions, although intentional, were not aimed at affecting the litigation, or through which the party either proves his case or repels the case against him.

There is no evidence that the Plaintiff intentionally destroyed or was reckless in respect of the Second Sinking of the Tug such that it is no longer available as evidence, or that it was aimed at affecting this litigation.

[38] It is true that the inspection of the hull after the First Sinking, by the Plaintiff's expert, the Defendant and Mr. Larsen, resulted in no conclusive factual reason for the sinking nor was there any conclusive factual reason for the Second Sinking, or for the Tug to be lost for further inspection.

[39] However, contrary to the Defendant's position, the evidence before the Court does show the following:

i) Neither the divers, the employees of the CCG, nor their surveyor Mr. Small, nor the surveyor retained by the Plaintiff, Mr. Holonko, nor Mr. Beasse and Mr. Larsen, found any evidence of the deliberate act by a third party causing damage to the hull, or otherwise allowing ingress of water.

ii) With respect to the Door:

a) The Door itself was found to be in good condition, with no signs of being forced by physical action;

b) The superstructure around the Door opening was found to be severely rotted;

c) There is a hatch, immediately above the Door, which can be secured by a hasp which fits over a staple in the Door through which a padlock can be placed. That hatch and the staple were both intact, clearly indicating that the hatch was not locked at the time of the sinking;

d) Shortly after the First Sinking, the Door was delivered to Mr. J. Spears, who was the lawyer for the Defendant at the time. The Door was held by him until it was produced for examination by the parties to this action in May, 2017. At that time, the Door was found with the locking mechanism in a retracted position, indicating that the Door was not locked at the time of the sinking.

e) Mr. Holonko has opined in his professional opinion that the Door was broken off during the sinking itself, either by the air pressure being forced out of the superstructure, or the water rushing into the superstructure.

[40] Further, any alleged animosity between an employee of Squamish Marine Services and the Defendant is irrelevant to the towing services provided by Valley, who was responsible for the Tug when the Second Sinking occurred. The CCG also had no *animus* to the Defendant, and on the facts, was doing everything it could to preserve the Tug for inspection, from raising the Tug after the First Sinking, continuously up to the Second Sinking.

[41] The facts need to be analyzed on a standard aptly characterized in *FH v McDougall*, 2008 SCC 53, at paragraphs 44 to 46:

> [44] Put another way, it would seem incongruous for a judge to conclude that it was more likely than not that an event occurred, but not sufficiently likely to some unspecified standard and therefore that it did not occur. As Lord Hoffmann explained in *In re B* at para. 2:
>
> > If a legal rule requires a fact to be proved (a "fact in issue"), a judge or jury must decide whether or not it happened. There is no room for a finding that it might have happened. The law operates a binary system in which the only values are zero and one. The fact either happened or it did not. If the tribunal is left in doubt, the doubt is resolved by a rule that one party or the other carries the burden of proof. If the party who bears the burden of proof fails to discharge it, a value of zero is returned and the fact is treated as not having happened. If he does discharge it, a value of one is returned and the fact is treated as having happened.
>
> In my view, the only practical way in which to reach a factual conclusion in a civil case is to decide whether it is more likely than not that the event occurred.
>
> [45] To suggest that depending upon the seriousness, the evidence in the civil case must be scrutinized with greater care implies that in less serious cases the evidence need not be scrutinized with such care. I think it is inappropriate to say that there are legally recognized different levels of scrutiny of the evidence depending upon the seriousness of the case. There is only one legal rule and

> that is that in all cases, evidence must be scrutinized with care by the trial judge.
>
> [46] Similarly, evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test. But again, there is no objective standard to measure sufficiency. In serious cases, like the present, judges may be faced with evidence of events that are alleged to have occurred many years before, where there is little other evidence than that of the plaintiff and defendant. As difficult as the task may be, the judge must make a decision. If a responsible judge finds for the plaintiff, it must be accepted that the evidence was sufficiently clear, convincing and cogent to that judge that the plaintiff satisfied the balance of probabilities test.

[42] The Plaintiff has established the expenses incurred due to the pollution caused by the First Sinking. I agree with the Plaintiff that the onus then shifts to the Defendant to prove its defence of third-party responsibility under subsection 77(3)(*b*) of the *MLA*. The Defendant has failed to raise a genuine issue for trial based on purely speculative conjecture of a third party causing the First Sinking, when the facts indicate that on a balance of probabilities no such activity occurred.

[43] The Tug was unseaworthy and sunk – the Defendant has failed to show in the evidence on a balance of probabilities any defence based on paragraph 77(3)(b) of the *MLA* relating to third-party responsibility for the First Sinking. The obligation on the Defendant to put its best foot forward has not been met. The Defendant as owner of the Tug is liable for the pollution clean-up.

[44] There is no useful purpose in proceeding with the full trial – evidence will shed no better light on the fact concerning the First Sinking than what is presently before the Court. There is no

evidence to support a finding of third-party involvement to justify a defence under paragraph 77(3)(b) of the *MLA*. It is in the interests of justice for the Court to decide this matter by way of summary judgment.

IV. Conclusions

[45] The motion is granted. Costs to the Plaintiff. The parties shall have ten (10) days from the date of this judgment to either agree on costs or to submit their written representations on costs, not to exceed five (5) pages.

JUDGMENT IN T-1698-16

THIS COURT'S JUDGMENT is that:

1. Summary judgment is granted in favour of the Plaintiff;
2. The Defendant shall pay to the Plaintiff the amount of $82,512.70, plus pre-judgment and post-judgment interest at 3% from January 14, 2014 to the date of payment;
3. Costs to the Plaintiff; if the parties cannot agree on costs, they shall have ten (10) days from the date of this judgment to submit written representations on costs, not to exceed five (5) pages.

"Michael D. Manson"

Judge

APPENDIX A

Marine Liability Act, SC 2001, c 6

Liability for pollution and related costs

77 (1) The owner of a ship is liable

(a) for oil pollution damage from the ship;

(b) for the costs and expenses incurred by the Minister of Fisheries and Oceans, 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) 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, or

(ii) any other person in respect of the measures that they were directed to take or refrain from taking under paragraph 180(1)(c) of the Canada Shipping Act, 2001 to the extent that the measures taken and the costs and expenses are reasonable, and for any loss or damage caused by those measures.

Responsabilité en matière de pollution et frais connexes

77 (1) Le propriétaire d’un navire est responsable :

a) des dommages dus à la pollution par les hydrocarbures causée par le navire;

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) 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.

Liability for environmental damage

Responsabilité : dommage à

(2) If oil pollution damage from a ship results in impairment to the environment, the owner of the ship is liable for the costs of reasonable measures of reinstatement undertaken or to be undertaken.

l'environnement

(2) Lorsque des dommages dus à la pollution par les hydrocarbures causée par un navire ont des conséquences néfastes pour l'environnement, le propriétaire du navire est responsable des frais occasionnés par les mesures raisonnables de remise en état qui sont prises ou qui le seront.

Strict liability subject to certain defences

(3) The owner's liability under subsections (1) and (2) does not depend on proof of fault or negligence, but the owner is not liable under those subsections if they establish that the occurrence

(a) resulted from an act of war, hostilities, civil war or insurrection or from a natural phenomenon of an exceptional, inevitable and irresistible character;

(b) was wholly caused by an act or omission of a third party with intent to cause damage; or

(c) was wholly caused by the negligence or other wrongful act of any government or other authority that is responsible for the maintenance of lights or other navigational aids, in the exercise of that function.

Défenses

(3) La responsabilité du propriétaire prévue aux paragraphes (1) et (2) n'est pas subordonnée à la preuve d'une faute ou d'une négligence, mais le propriétaire n'est pas tenu pour responsable s'il démontre que l'événement :

a) soit résulte d'un acte de guerre, d'hostilités, de guerre civile ou d'insurrection ou d'un phénomène naturel d'un caractère exceptionnel, inévitable et irrésistible;

b) soit est entièrement imputable à l'acte ou à l'omission d'un tiers qui avait l'intention de causer des dommages;

c) soit est entièrement imputable à la négligence ou à l'action préjudiciable d'un gouvernement ou d'une autre autorité dans le cadre des responsabilités qui lui incombent en ce qui concerne l'entretien des feux et autres aides à la navigation.

Owner's rights against third parties

(4) Nothing in this Division shall be construed as limiting or restricting any right of recourse that the owner of a ship who is liable under

Droits du propriétaire envers les tiers

(4) La présente section n'a pas pour effet de porter atteinte aux recours que le propriétaire d'un navire responsable aux termes du paragraphe (1) peut exercer contre des tiers.

subsection (1) may have against another person.

Owner’s own claim for costs and expenses

(5) The costs and expenses incurred by the owner of a ship in respect of measures voluntarily taken by them 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, rank equally with other claims against any security given by that owner in respect of their liability under this section.

Réclamation du propriétaire

(5) Les frais supportés par le propriétaire d’un navire qui prend volontairement les mesures visées à l’alinéa (1)b) sont du même rang que les autres créances vis-à-vis des garanties que le propriétaire a données à l’égard de la responsabilité que lui impose le présent article, pour autant que ces frais et ces mesures soient raisonnables.

Limitation period

(6) No action lies in respect of a matter referred to in subsection (1) unless it is commenced

(a) if pollution damage occurs, within the earlier of

(i) three years after the day on which the pollution damage occurs, and

(ii) six years after the occurrence that causes the pollution damage or, if the pollution damage is caused by more than one occurrence having the same origin, six years after the first of the occurrences; or

(b) if no pollution damage occurs, within six years after the occurrence.

Prescription

(6) Les actions fondées sur la responsabilité prévue au paragraphe (1) se prescrivent :

a) s’il y a eu dommages dus à la pollution, par trois ans à compter du jour de leur survenance ou par six ans à compter du jour de l’événement qui les a causés ou, si cet événement s’est produit en plusieurs étapes, du jour de la première de ces étapes, selon que l’un ou l’autre délai expire le premier;

b) sinon, par six ans à compter du jour de l’événement.

Claimants entitled to interest

116 (1) Interest accrues on a claim under this Part against an owner of a ship, the owner’s guarantor, the Ship-source Oil Pollution Fund, the International Fund or the Supplementary Fund at the rate prescribed under the Income Tax Act for amounts payable by the Minister of National Revenue

Droit aux intérêts

116 (1) Aux demandes en recouvrement de créance présentées en vertu de la présente partie contre le propriétaire d’un navire, le garant d’un propriétaire de navire, la Caisse d’indemnisation, le Fonds international ou le Fonds complémentaire s’ajoutent des intérêts calculés au taux en vigueur fixé en vertu de la

as refunds of overpayments of tax under that Act as are in effect from time to time.

Loi de l’impôt sur le revenu sur les sommes à verser par le ministre du Revenu national à titre de remboursement de paiements en trop d’impôt en application de cette loi.

Time from which interest accrues

(2) Interest accrues on a claim under this Part

(a) if the claim is based on paragraph 77(1)(a) or on Article III of the Civil Liability Convention or Article 3 of the Bunkers Convention, from the day on which the oil pollution damage occurs;

(b) if the claim is based on section 51 or 71 or paragraph 77(1)(b) or (c), or on Article III of the Civil Liability Convention or Article 3 of the Bunkers Convention as they pertain to preventive measures,

(i) in the case of costs and expenses, from the day on which they are incurred, or

(ii) in the case of loss or damage, from the day on which the loss or damage occurs; or

(c) if the claim is based on section 107, from the time when the loss of income occurs.

Délais

(2) Les intérêts visés au paragraphe (1) sont calculés :

a) dans le cas d’une demande fondée sur l’alinéa 77(1)a) ou sur l’article III de la Convention sur la responsabilité civile ou l’article 3 de la Convention sur les hydrocarbures de soute, à compter de la date où surviennent les dommages dus à la pollution par les hydrocarbures;

b) dans le cas d’une demande fondée sur les articles 51 ou 71 ou les alinéas 77(1)b) ou c) ou, à l’égard des mesures de sauvegarde, sur l’article III de la Convention sur la responsabilité civile ou l’article 3 de la Convention sur les hydrocarbures de soute, à compter :

(i) soit de la date où sont engagés les frais,

(ii) soit de la date où surviennent les dommages ou la perte;

c) dans le cas d’une demande fondée sur l’article 107, à compter de la date où survient la perte de revenus.

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-1698-16
STYLE OF CAUSE:	THE ADMINISTRATOR OF THE SHIP-SOURCE OIL POLLUTION FUND v ROBIN BEASSE *ET AL*
PLACE OF HEARING:	VANCOUVER, BRITISH COLUMBIA
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JUDGMENT AND REASONS	MANSON J.
DATED:	JANUARY 16, 2018

APPEARANCES:

David McEwen	FOR THE PLAINTIFF THE ADMINISTRATOR OF THE SHIP SOURCE OIL POLLUTION FUND
James Straith	FOR THE DEFENDANT/ PLAINTIFF BY COUNTERCLAIM ROBIN BEASSE
No one appearing	FOR THE DEFENDANTS BY COUNTERCLAIM
No one appearing	FOR THE THIRD PARTY VALLEY TOWING LIMITED

SOLICITORS OF RECORD:

Alexander, Holburn, Beaudin + Lang Barristers & Solicitors Vancouver, British Columbia	FOR THE PLAINTIFF THE ADMINISTRATOR OF THE SHIP-SOURCE OIL POLLUTION FUND
James Strait Barrister & Solicitor Vancouver, British Columbia	FOR THE DEFENDANT/ PLAINTIFF BY COUNTERCLAIM ROBIN BEASSE
The Attorney General of Canada Vancouver, British Columbia	FOR THE DEFENDANT BY COUNTERCLAIM HER MAJESTY IN RIGHT OF CANADA
Whitelaw Twining Law Corporation Barristers & Solicitors Vancouver, British Columbia	FOR THE DEFENDANTS BY COUNTERCLAIM SQUAMISH MARINE SERVICE LTD. AND CHRIS TAMBURRI
Norton Rose Fulbright Canada LLP Barristers and Solicitors Vancouver, British Columbia	FOR THE THIRD PARTY VALLEY TOWING LIMITED