

1 JOSEPH A. WALSH II, State Bar No. 143694
joe.walsh@cwn-law.com
2 ELLEN E. McGLYNN, State Bar No. 270367
ellen.mcglynn@cwn-law.com
3 COLLIER WALSH NAKAZAWA LLP
One World Trade Center, Suite 2370
4 Long Beach, California 90831
Telephone: (562) 317-3300
5 Facsimile: (562) 317-3399

6 Attorneys for Plaintiff Dordellas Finance
Corp.
7

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION
10

11 In re Application of
12 Dordellas Finance Corp.
13 Petitioner,

14 For Order Authorizing
15 Petition to Perpetuate
16 Testimony Pursuant to
17 FRCP Rules 27

Case No.

IN ADMIRALTY

**DECLARATION OF JOSEPH A.
WALSH II IN SUPPORT OF
OPPOSED EMERGENCY EX
PARTE VERIFIED PETITION FOR
AN ORDER TO PERPETUATE
TESTIMONY**

[FRCP Rule 27]

18
19
20 I, Joseph A. Walsh II, declare and state as follows:
21
22

23 1. I am a Partner at Collier Walsh Nakazawa LLP, Attorneys for Petitioner
24 Dordellas Finance Corp. (hereinafter "Petitioner") in the above-captioned action.

25 2. I submit this declaration in support of Petitioner's Opposed Emergency
26 *Ex Parte* Verified Petition for an Order to Perpetuate Testimony ("Petition") Pursuant
27 to FRCP Rules 27.

28 3. I have personal knowledge of the facts in this declaration except those

COLLIER WALSH NAKAZAWA LLP
One World Trade Center, Suite 2370
Long Beach, California 90831
Telephone (562) 317-3300

1 facts stated on information and belief and as to those facts, I believe them to be true.

2 4. On or about October 2, 2021, an oil spill was detected off of the shore of
3 California which was the result of a subsea oil pipeline rupture (the "Oil Spill").

4 5. Upon information and belief, the ruptured subsea pipeline is owned by
5 Amplify Energy Corporation ("Amplify").

6 6. Upon information and belief, the Oil Spill resulted in an estimated
7 25,000 gallons of oil being discharged into the waters of the United States creating a
8 clean-up response zone of nearly thirteen (13) square miles.

9 7. On or about October 16, 2021, the United States Coast Guard ("Coast
10 Guard") issued a News Release indicating that the Petitioner was designated as "party
11 in interest" relating to the Coast Guard's maritime casualty investigation arising from
12 the October 2, 2021 Oil Spill

13 8. As a result of Coast Guard designating Petitioner as a "party in interest,"
14 Petitioner became the subject of potential litigation arising from the Oil Spill and has
15 since been cooperating with the Coast Guard as it carries out its investigation into the
16 cause of the Oil Spill.

17 9. On or about November 19, 2021 the Coast Guard designated the owner
18 and operator of the M/V BEIJING as "parties in interest" related to the vessel's
19 potential involvement in the Oil Spill.

20 10. The Coast Guard alleges that both the MSC DANIT and M/V BEIJING
21 were involved in an anchor dragging incident or incidents during a heavy weather
22 event that impacted the Ports of Long Beach and Los Angeles on January 25, 2021
23 which may have contributed to the Oil Spill.

24 11. Amplify interests threatened to arrest Petitioner's vessel, the MSC
25 DANIT, and demanded adequate security. Amplify thereafter accepted a Letter of
26 Undertaking in that amount in lieu of arrest.

27 12. As of Monday, November 15, 2021 I was advised by a source that no
28 decision had been made with regard to whether the M/V BEIJING would call in Long

COLLIER WALSH NAKAZAWA LLP
One World Trade Center, Suite 2370
Long Beach, California 90831
Telephone (562) 317-3300

1 Beach or Los Angeles. Our source also advised that the M/V BEIJING would not
2 likely come alongside to offload its cargo until sometime in December due to historic
3 port congestion.

4 13. On or about November 16, 2021 I was advised that the Coast Guard
5 planned to board the M/V BEIJING on November 18, 2021.

6 14. On or about November 16, 2021 I was also advised that four (4)
7 crewmembers presently onboard the M/V BEIJING were also onboard during the
8 January 25, 2021 anchor dragging incident. The USCG invited me to participate in
9 the interviews of these four crew members. I immediately confirmed my acceptance
10 of the invitation.

11 15. On or about November 17, 2021 I received notice that counsel for the
12 M/V BEIJING objected to Petitioner's participation with respect to the interviews of
13 the four (4) crewmembers who were onboard the M/V BEIJING on January 25, 2021.
14 Counsel for the M/V BEIJING also objected to Petitioner's presence onboard the M/V
15 BEIJING where we could have viewed the ship's documents, anchor, focsle, and
16 windlass and appurtenances.

17 16. The M/V BEIJING was ordered by the U.S. Coast Captain of the Port to
18 anchor at the G-9 anchorage just outside the breakwater to the Port of Los Angeles.
19 The Marine Exchange advised that the vessel arrived at the anchorage at 0920 on
20 November 17, 2021.

21 17. On November 18, 2021 the U.S. Coast Guard attended onboard the
22 vessel to conduct an investigation and to interview the crew including the four
23 individuals who were onboard in January 2021. At approximately 1445 hours on
24 November 18, 2021 U.S Coast Guard advised that they had completed their work for
25 the day. The vessel then shifted from its anchorage back to sea where it was expected
26 to drift until an anchorage and then berth became available. This expectation appeared
27 to me to be quite reasonable given the current port congestion.

28 18. I have been practicing maritime law in Southern California for over 30

COLLIER WALSH NAKAZAWA LLP
One World Trade Center, Suite 2370
Long Beach, California 90831
Telephone (562) 317-3300

1 years. In all these years I have never seen port congestion and ship delays like those
2 present today. It has been my recent experience that arriving ships have been ordered
3 to drift for 10 to 14 days on average, and then as they advance in the que, be ordered
4 to an outer or inner anchorage for another two weeks or so. My observations and
5 experiences have been shared with and confirmed by fellow practitioners, marine
6 surveyors and many clients who have ships recently calling in the ports of Los
7 Angeles and Long Beach.

8 19. On November 22, 2021 the M/V BEIJING unexpectedly re-entered the
9 San Pedro Bay anchorage complex and this time anchored at SF-4.

10 20. Upon noticing the vessel's unexpected movement and new anchor
11 position, I checked with our sources and on November 23, 2021 was advised that the
12 M/V BEIJING had somehow accelerated both its schedule to come alongside a berth
13 and its time of completion for cargo operations. The ship is scheduled to leave this
14 District on November 29, 2021 at 0300 hours PST.

15 21. Beginning at approximately 1220 PST on November 23, 2021, I began
16 to place phone calls to counsel for M/V BEIJING and its owners and operators, Glen
17 Piper of Peacock Piper Tong & Voss LLP. At 1248 PST Mr. Piper returned my call
18 and we discussed Petitioner's intention to arrest the M/V BEIJING and to seek judicial
19 assistance in obtaining depositions and preservation of evidence unless a letter of
20 undertaking was provided and an agreement was made to preserve testimony and
21 evidence was reached extrajudicially. That call lasted for 23 minutes and ended by
22 my agreement to provide a written request to Mr. Piper.

23 22. At 1402 PST on November 23, 2021 I provided written notice via email
24 to Mr. Piper and his Partner Albert Peacock III of Petitioner's intention to arrest the
25 M/V BEIJING and to seek an order to perpetuate testimony and evidence pursuant to
26 Rule 27 of the Federal Rules of Civil Procedure. I spoke at various other times with
27 Mr. Peacock to explore options for both avoiding the need to file an application for
28 the arrest of the M/V BEIJING and the instant Petition. Mr. Peacock advised that the

COLLIER WALSH NAKAZAWA LLP
One World Trade Center, Suite 2370
Long Beach, California 90831
Telephone (562) 317-3300

1 BEIJING, its owners and operators oppose the Petition for discovery under Rule 27.

2 23. On the morning of November 24, 2021 an agreement was reached
3 whereby Mr. Piper and Mr. Peacock agreed to allow Petitioner to obtain the requested
4 evidence in addition to deposing the four crewmembers in lieu of arrest.

5 24. At 1146 PST on November 24, 2021 Attorney Michael Zwieback called
6 me and informed me that he represented Second Officer, Robert Ledesma. Mr.
7 Zwieback advised that Mr. Ledesma would assert his Fifth Amendment rights against
8 self-incrimination to any question I asked.

9 25. Following my conversation with Mr. Zwieback I phoned Mr. Peacock
10 who offered that his client, as employer of Mr. Ledesma, order Mr. Ledesma to be
11 interviewed by me, but we both acknowledged that Mr. Ledesma's decision to answer
12 questions was solely up to Mr. Ledesma.

13 26. Mr. Zwieback, Mr. Peacock and myself then agreed via email that Mr.
14 Ledesma would be interviewed Friday on November 26, 2021 in the presence of a
15 court reporter and Tagalog interpreter.

16 27. On November 26, 2021 at approximately 1525 PST I began my interview
17 with Mr. Ledesma. Mr. Ledesma, through Mr. Zwieback, asserted his Fifth
18 Amendment rights to nearly every question stated.

19 28. Mr. Ledesma, through counsel, declined to provide his date of birth or
20 citizenship.

21 29. After seventeen (17) minutes Mr. Zwieback effectively terminated the
22 interview.

23 30. Following the termination of the interview I informed Mr. Zwieback that
24 I, on behalf of Petitioner, would seek an emergency order to take Mr. Ledesma's
25 deposition pursuant to Federal Rule of Civil Procedure, Rule 27. Mr. Zwieback
26 advised he is not authorized to accept a deposition subpoena and we are under the
27 impression he would oppose this motion.

28 31. At approximately 1300 November 27, 2021, Mr. Piper alerted me that

1 Mr. Ledesma had left the BEIJING and is making his way to the airport.

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed November 27, 2021, at Long Beach, California.

/s/ Joseph A. Walsh II
Joseph A. Walsh II

COLLIER WALSH NAKAZAWA LLP
One World Trade Center, Suite 2370
Long Beach, California 90831
Telephone (562) 317-3300