

## **SECURITY FOR COSTS AND DAMAGES**

Security for costs and damages is not a condition for the arrest, but while applying for the arrest an undertaking is required to be given in writing to pay such sum by way of damages as the court may award compensation in the event of a party affected sustains prejudice by the arrest. There is however little risk of being condemned to pay damages to the owners of an arrested ship, even if the claim fails unless the arrest was manifestly a gross abuse of the court's process which was instituted with malafide intention.

The undertaking from the Plaintiff securing cost and damages should be given to the court when an application for arrest of the Defendant vessel is made before the trial court.

A person who, maliciously and without reasonable and probable cause procures the arrest of a ship by Admiralty proceedings is liable to pay damages to the person aggrieved. A separate suit has to be filed for wrongful arrest proving malicious cause. Wrongful arrest may result in a condemnation of the claimant for damages only where the court is satisfied that the arrest was motivated by mala fides (bad faith) or crassa negligentia (gross negligence). Merely unjustified (i.e. erroneous) arrest would not normally entitle the defendant to claim damages, although he might then be able to recover costs.