

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION  
IN ADMIRALTY**

ODYSSEY MARINE EXPLORATION, INC.,

Plaintiff,

CIVIL ACTION

v.

Case No. 8:07-cv-00614-SDM-MAP

THE UNIDENTIFIED SHIPWRECKED VESSEL,  
If any, its apparel, tackle, appurtenances and  
cargo located within a five mile radius of the  
center point coordinates provided to the Court  
under seal,

Defendant,  
*in rem*

and

The Kingdom of Spain and The Republic of Peru,

Claimants,

and

Gonzalo de Aliaga (the Count of San Juan  
de Lurigancho), *et al.*,

Claimants.

\_\_\_\_\_ /

Opposed Motion Of Claimant Kingdom of Spain For Leave To  
File A Response To The Opposition of Plaintiff Odyssey Marine  
Exploration to Spain’s Motion to Dismiss or For Summary Judgment

COMES NOW, Claimant Kingdom of Spain (“Spain”) by and through undersigned  
counsel, and pursuant to Local Rules 3.01(c) and (d), hereby moves the Court for leave to file a  
reply of no more than thirty (30) pages in response to the opposition to Spain’s Motion to  
Dismiss or for Summary Judgment of Odyssey Marine Exploration (“Odyssey”) (Dkt. 138) filed

on November 17, 2008. Spain requests leave to submit such a reply on or before January 26, 2008. In support of its Motion, Spain states:

1. Odyssey's Response to Spain's motion includes 10 declarations and/or reports and approximately 1000 total pages. Odyssey's submissions include appendices such as a memorandum on Spanish law by Spanish counsel (Dkt. 138-90), an expert's declaration on statistical analysis (Dkt. 138-92) and extensive materials regarding archaeological and historical matters which Spain believes it is necessary and in the interests of justice to controvert. In order to present such matters, historical research in Spain and work by counsel with consultants and/or experts in Spain is anticipated. Annexes to Odyssey's submissions also include a very large number of excerpts of documents from Spanish and other historical archives, as to which Spain believes that locating and reviewing unexcerpted portions will be necessary so that the Court can be properly informed as to such matters. Based on preliminary review to date of Odyssey's submissions, it is also anticipated that careful examination of the accuracy of translations submitted by Odyssey will also be necessary.

2. In view of the volume, nature and content of the materials that Odyssey has submitted in opposition to Spain's motion, it is respectfully submitted that it is in the interests of justice that Spain should be granted leave to submit a reply memorandum as to Odyssey of no more than thirty pages, and that because of pre-existing commitments of counsel in other cases Spain should have until January 26, 2008 to do so. This represents approximately the amount of time allowed for Odyssey to respond to Spain's motion, but with an allowance for

the holidays during which consultants and/or experts may be unavailable.<sup>1</sup> Spain seeks thirty pages for its reply because it believes there are a number of matters raised in declarations and annexes with Odyssey's Responses that can be responded to more efficiently in a thirty page memorandum rather than in rebuttal declarations, should the Court grant the leave requested.

3. Counsel for Spain has consulted counsel for Odyssey and has been advised that Odyssey opposes Spain being granted leave to file any reply. Counsel for Spain is in discussion with counsel for Peru as to a motion seeking leave for Spain to file a separate reply to Peru's Opposition to Spain's Motion to Dismiss or for Summary Judgment.

WHEREFORE, Claimant Spain requests this Court to permit it to file a reply in accordance with this motion to respond to factual and legal matters Spain believes it necessary to controvert in the interests of justice and for due consideration by the Court of the sovereign immunity asserted by Spain in this case and other matters disputed by Odyssey.

Respectfully submitted,

s/James A. Goold  
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<sup>1</sup> Claimant Spain does not address at this time the "Verified Claims of Named Descendants" (Dkt. 136), filed November 14, 2008. That document purports to object to Spain's Motion to Dismiss or for Summary Judgment, and states that the "Descendant Claimants" intend at some future date to "file under separate cover . . . a formal claim . . ." (*Id.*, ¶ 18). Counsel believes that at this stage it is premature to address what, if any, procedures should be followed with respect to the anticipated claim.

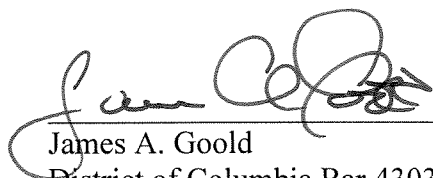
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November 21, 2008

## CERTIFICATE OF SERVICE

I hereby certify that on November 21, 2008, I caused the attached Opposed Motion Of Claimant Kingdom of Spain For Leave To File A Response To The Opposition of Plaintiff Odyssey Marine Exploration to Spain's Motion to Dismiss or For Summary Judgment to be served on counsel of record for all parties by filing the aforementioned motion electronically via the Court's CM/ECF system, which will forward copies to all counsel of record.



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