

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

“IN ADMIRALTY”

ODYSSEY MARINE EXPLORATION, INC.

Plaintiff,

v.

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.

:
:
: CIVIL ACTION
:
:
: Case No: 8:07-CV-00614-SDM-MAP

**PLAINTIFF’S MOTION FOR LEAVE TO FILE A REPLY TO
THE REPUBLIC OF PERU’S RESPONSE TO THE KINGDOM
OF SPAIN’S MOTION TO DISMISS OR FOR SUMMARY JUDGMENT**

COMES NOW, Plaintiff, Odyssey Marine Exploration, Inc. (“Odyssey”), by and through undersigned counsel, and pursuant to Local Rules 3.01(c) and (d) hereby moves this Honorable Court for leave to file a reply of no more than twenty-five (25) pages to the

Republic of Peru's Response to the Kingdom of Spain's Motion to Dismiss or for Summary Judgment. In support of this motion, Plaintiff states:

1. Claimant, Kingdom of Spain, filed a motion to dismiss or for summary judgment on September 22, 2008 (Dkt. 131). Odyssey filed a response to Spain's Motion to Dismiss on November 17, 2008 (Dkt. 138). Spain sought leave to file a reply to Odyssey's memorandum in opposition, which was granted. (Dkt. 144, 148) Spain's reply is not to exceed thirty (30) pages and is due on or before January 26, 2009.

2. On November 17, 2008, Claimant The Republic of Peru ("Peru"), also filed a response to the Kingdom of Spain's ("Spain") Motion to Dismiss or for Summary Judgment (Dkt. 141). Citing the "novel and far-reaching issues" raised by Peru in its response, Spain sought leave to file a reply to the Republic of Peru's opposition. (Dkt. 147). This Court granted Claimant Spain's motion for leave to file a response/reply to Peru's memorandum. (Dkt. 150). Spain's reply was not to exceed twenty-five (25) pages and is due on or before January 26, 2009.

3. No other brief or legal memorandum pertaining to Spain's Motion to Dismiss or for Summary Judgment is permitted without the permission of this Court. Local Rule 3.01(c).

4. Peru's opposition to the Kingdom of Spain's Motion to Dismiss or for Summary Judgment has raised several new issues that may be relevant to the claims of Plaintiff. Namely, the Republic of Peru raises several issues related to international law, historic interpretation, and additional issues related to Peru's sovereignty claims. These

issues of fact and law may be relevant to Plaintiff's claims and thus Plaintiff seeks leave to reply to the Republic of Peru's opposition.

5. Odyssey seeks leave to file a reply to the Republic of Peru's opposition to the Kingdom of Spain's Motion to Dismiss or for Summary Judgment to address the issues raised by Peru that relate to Odyssey's claims. This Court has already recognized the new and novel issues and granted leave for Spain to file a reply of no more than twenty-five (25) pages to the Republic of Peru's opposition to their Motion to Dismiss. Odyssey will limit the reply to the same relief given to the Kingdom of Spain: a reply of no more than twenty-five (25) pages due on or before January 26, 2009.

WHEREFORE, Plaintiff, Odyssey Marine Exploration, Inc., respectfully requests this Honorable Court to grant its Motion for Leave to file a Reply to the Republic of Peru's Response to the Kingdom of Spain's Motion to Dismiss or for Summary Judgment.

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 3.01(g), undersigned counsel certifies that he has conferred with counsel for the Kingdom of Spain and counsel for the Republic of Peru in a good faith effort to resolve this issues raised by the motion. Claimant Kingdom of Spain is opposed to the motion, and Claimant Republic of Peru has not indicated whether it will oppose the requested relief.

Dated: December 2, 2008

Respectfully submitted,



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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 2, 2008, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to James A. Goold, Covington & Burling LLP, 1201 Pennsylvania Ave., NW, Washington, DC 20004; and David C. Banker, Bush Ross P.A., 220 S. Franklin Street, P. O. Box 3913, Tampa, FL 33601, *Attorneys for Claimant, Kingdom of Spain*; and Timothy P. Shusta, Phelps Dunbar LLP, 100 S. Ashley Drive, Suite 1900, Tampa, FL 33602-5315; and Mark Maney, South Tower, Penzoil Place, 711 Louisiana, Suite 3100, Houston, TX 77002, *Attorneys for the Republic of Peru.*, and David Paul Horan, Horan, Wallace & Higgins, LLP, 608 Whitehead Street, Key West, FL 33040, *Attorney for Descendant Claimants.*



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