

**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, THE REPUBLIC OF PERU, AND  
GONZALO DE ALIAGA, *et al.*,

Claimants.

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**KINGDOM OF SPAIN'S OPPOSITION TO  
ODYSSEY MARINE EXPLORATION'S MOTION TO REPLY**

The Kingdom of Spain hereby opposes Odyssey Marine Exploration (“Odyssey”)’s Motion for Leave to File Reply to Spain’s Response to Odyssey’s Objections to the Magistrate’s Report and Recommendation (Doc. 242, “Motion”).

The Magistrate Act calls for a party “filing objections to an R&R to specifically identify those findings objected to and the specific basis for such objections.” *State Contracting & Engineering Corp. v. Condotte America, Inc.*, 368 F. Supp. 2d 1296, 1300 (S.D. Fl. 2005); *see also Marsden v. Moore*, 847 F.2d 1536, 1548 (11th Cir.), *cert. denied*, 488 U.S. 983 (1988). Odyssey has had a full opportunity to do so, at length.

This Court needs no further repetition from Odyssey of its objections to the R&R. The two issues Odyssey seeks leave to address – the proper standard of review for jurisdictional FSIA challenges and whether the *Mercedes* falls within FSIA’s commercial activity exception – were discussed at great length in Odyssey’s Objections.

As this Court has previously held, “because Spain’s assertion of sovereign immunity is a challenge to this Court’s jurisdiction, the Court is duty-bound to determine this issue at the earliest possible stage in the case.” (Doc. 114, Order, at 1 (citing *Guevara v. Republic of Peru*, 468 F.3d 1289, 1309 (11th Cir. 2006)).) More than ten days after Spain submitted its response to Odyssey’s objections, Odyssey now seeks leave for an additional thirty days for further filings.

The relevant law and local rules require a party seeking to object to a magistrate judge’s Report and Recommendation to present the grounds for their objections in a written Objection, as Odyssey has done. Spain respectfully submits that Odyssey may not now further revisit or repeat those objections or raise additional objections via a reply not contemplated by the Magistrate Act or by this Court’s rules.

## CONCLUSION

For the foregoing reasons, Spain respectfully submits that Odyssey's Motion for Leave to File Reply to Spain's Response should be denied.

Respectfully submitted on September 11, 2009,

s/ James A. Goold

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**CERTIFICATE OF SERVICE**

I hereby certify that on this date, September 11, 2009, I caused the foregoing Opposition to Spain's Motion to File Reply to be served on counsel of record for all parties by filing with the Court via its CM/EMF system.

s/ James A. Goold  
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