

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. 8:08-cv-01044-SDM-TGW
	:	
THE UNIDENTIFIED, SHIPWRECKED	:	
VESSEL, its apparel, tackle, appurtenances and	:	
cargo located within a 5 mile radius of the center	:	
point coordinates: to be provided to the Court under	:	
seal at the Court's request, <i>in rem</i>	:	
	:	
Defendant(s).	:	
_____ /	:	

MOTION TO APPROVE NOTICE OF ACTION IN REM AND ARREST

Plaintiff, Odyssey Marine Exploration, Inc. ("Odyssey"), under Local Admiralty Rule 7.01(g) and by and through its undersigned counsel, moves this Court to approve Odyssey's publication of notice as required by Supplemental Rule C(4) by causing a notice in the form attached as Exhibit "A" to be published once in The Tampa Tribune and in the London Times within thirty (30) days from the entry of an order granting this motion.

MEMORANDUM IN SUPPORT

Under Supplemental Rule C(6) a person who asserts a right of possession or any ownership interest in the property which is the subject of this action must file a verified statement of right or interest within 10 days after execution of process or within the time that the Court allows. Further, under Supplemental Rule C(4), if property is not released within

10 days after execution, the plaintiff must “promptly—or within the time that the court allows—give public notice of the action and arrest in a newspaper designated by court order and having general circulation in the district” Local Admiralty Rule 7.01(g) provides that the “newspaper of largest circulation in the county in the Middle District is rebuttably presumed to be a newspaper of general circulation in that same county.” The Rule further allows the court to “require publication in one or more additional publications if necessary to provide notice reasonably calculated to inform interested parties.”

The 10-day requirement is appropriate for cases in which the property arrested is in actual possession of a person who is in position to advise someone who may have an interest in the property, such as a vessel with crew aboard. In this case, however, the Defendant Shipwrecked Vessel lies at the bottom of the English Channel, and an artifact recovered by Odyssey from the Defendant Shipwrecked vessel has been delivered to the U.S. Marshal to be arrested. In this instance, Odyssey believes it is appropriate to extend the 10-day deadline and the deadline for intervention. It also seems appropriate to publish the notice in U.S. and European media to give broad notice. In order to provide sufficient time for arrangements to be made to cause the notice to be published, Odyssey asks that it be allowed 30 days from the entry of an order on this motion to cause the notice to be published.

The Court will observe that the proposed notice indicates that the vessel discovered and captioned above is believed to be LE MARQUIS TOURNAY, a vessel thought to be privately owned which likely sank in the late 18th century. This identification has not been confirmed, but is based on the general location of the shipwreck, characteristics of the wrecksite and certain artifacts recovered therefrom including a ship’s bell. Odyssey

mentions LE MARQUIS TOURNAY as a likely identity in the notice in the interest of giving the most accurate notice based on information currently available. Further to this end, Odyssey has evidence that LE MARQUIS TOURNAY, while of French origin, was captured and subsequently awarded as a prize of war to certain British privateers by the Admiralty Court in 1748, thereby legally transferring any ownership and/or prospective succession rights. For this reason, Odyssey submits that the publication of notice in a United Kingdom venue is most appropriate and Odyssey proposes publication of the notice in The Tampa Tribune and in The London Times.

WHEREFORE, Odyssey requests this Court to grant this motion and approve as sufficient notice under Supplemental Rule C(4) the publication of the attached notice in The Tampa Tribune and in The London Times.

Odyssey attaches hereto the proposed Order granting this Motion to Approve Notice of Action in Rem and Arrest.

Dated: Jan 14, 2009

Respectfully submitted,



Allen von Spiegel - FBN 256803

avonsp@bankerlopez.com

Eric C. Thiel - FBN 016267

ethiel@bankerlopez.com

Banker Lopez Gassler P.A.

501 E. Kennedy Blvd.

Suite 1500

Tampa, Florida 33602

Phone: (813) 221-1500

Facsimile: (813) 222-3066

-and-

Melinda J. MacConnel - FBN 871151
mmacconnel@shipwreck.net
Odyssey Marine Exploration, Inc.
5215 West Laurel Street
Tampa, FL 33607
Phone: (813) 876-1776, ext. 2240
Fax: (813) 830-6609

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that this document was filed by use of the CM/ECF system on
January 14th, 2009.



Allen von Spiegel - FBN 256803
avonsp@bankerlopez.com
Eric C. Thiel – FBN 016267
ethiel@bankerlopez.com
Banker Lopez Gassler P.A.
501 E. Kennedy Blvd.
Suite 1500
Tampa, Florida 33602
Phone: (813) 221-1500
Facsimile: (813) 222-3066

-and-

Melinda J. MacConnel - FBN 871151
mmacconnel@shipwreck.net
Odyssey Marine Exploration, Inc.
5215 West Laurel Street
Tampa, FL 33607
Phone: (813) 876-1776, ext. 2240
Fax: (813) 830-6609

Attorneys for Plaintiff