

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ODYSSEY MARINE EXPLORATION, INC.,

Plaintiff,

v.

CASE NO: 8:08-cv-1044-T-23MAP

UNIDENTIFIED, WRECKED, AND
ABANDONED SAILING VESSEL,

Defendant.

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ORDER TO SHOW CAUSE

Odyssey seeks a judgment under the law of finds, which allows a finder to acquire “title to lost or abandoned property by ‘occupancy,’ i.e. by taking possession of the property and exercising dominion and control over it.” Treasure Salvors, Inc. v. Unidentified Wrecked & Abandoned Sailing Vessel, 640 F.2d 560, 571 (5th Cir. 1981). On July 30, 2009, the Clerk entered default (Doc. 21) against any claimant to the defendant “the unidentified, shipwrecked vessel, its apparel, tackle appurtenances and cargo located within the center point coordinates provided to the Court under seal, in rem, and any and all claimants who failed to plea or otherwise defend.” Notwithstanding the default, Odyssey failed to move for default judgment pursuant to Rule 55(b), Federal Rules of Civil Procedure. Accordingly, a December 29, 2009, order (Doc. 22) directs Odyssey to show cause in writing why this action should not be dismissed for failure to prosecute. In response, Odyssey moved (Doc. 23) for default judgment, and a December 30, 2009, order (Doc. 24) denies the motion without prejudice because

Odyssey neither provided the center point coordinates of the wreck nor moved to submit the coordinates under seal. On January 8, 2010, the plaintiff moved (Doc. 25) to submit the center point coordinates under seal. Because “[a] finder cannot exclude others from their attempts to obtain first possession of artifacts recovered from an abandoned wreck,” R.M.S. Titanic, Inc. v. Wrecked & Abandoned Vessel, 435 F.3d 521, 535 (4th Cir. 2006), a February 11, 2010, order (Doc. 26) denies the motion to seal.

Despite the passage of more than two months since denial of the initial motion for default judgment (and more than seven months since the clerk entered default against any claimant to the defendant vessel), Odyssey neither renews the motion for a default judgment nor requests an extension of time to move for default judgment. Accordingly, on or before **Friday, March 19, 2010**, Odyssey shall show cause in writing why this action should not be dismissed for failure to prosecute pursuant to Local Rule 3.10. Failure to comply with this order will result in dismissal of this case without further notice.

ORDERED in Tampa, Florida, on March 10, 2010.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE