

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

ODYSSEY MARINE EXPLORATION, INC. :
Plaintiff, : CIVIL ACTION
v. : Case No.: 8:08-cv-01045-RAL-MAP
THE UNIDENTIFIED, WRECKED AND :
(FOR FINDERS-RIGHT PURPOSES) :
ABANDONED SAILING :
VESSEL, if any, its apparel, tackle, :
appurtenances and cargo located within :
center point coordinates: to be provided :
to the Court under seal at the Court's request :
in rem :
Defendant(s). :

**MOTION FOR ORDER DIRECTING CLERK TO
ISSUE WARRANT OF ARREST IN REM**

Plaintiff, Odyssey Marine Exploration, Inc., pursuant to Rule C(3), Supplemental Rules for Certain Admiralty and Maritime Claims, moves the Court for an order directing the Clerk to issue a warrant of arrest in rem against the Unidentified Shipwrecked Vessel, its apparel, tackle, appurtenances and cargo located within center point coordinates provided the Court under seal, as requested in the Complaint filed herein.

MEMORANDUM IN SUPPORT

A Complaint was filed herein on May 29, 2008. It is alleged by the Plaintiff in the Complaint that Plaintiff, Odyssey, discovered the Unidentified Shipwrecked Vessel in the English Channel, using sophisticated sonar and photographic equipment. Plaintiff, Odyssey,

also used a surface-controlled remote operating vehicle to survey the wreck site and to take photographic images. Furthermore, Odyssey returned to the wreck site and recovered artifacts associated with the wreck site including a piece of glass that will be delivered to the Court for the purpose of arresting a portion of the vessel and its appurtenances. Odyssey shall submit to the Court copies of the photo images and videotapes under seal and protective order if the Court so requests.

The Defendant Site appears to be a cannon wreck of the Colonial period lying within the English Channel at a depth of less than 200 meters between 25 and 40 miles from the Coast of the United Kingdom, beyond the territorial waters or contiguous zone of any sovereign nation. Upon information and belief, no extant entity or person presently claims any ownership interest in the Defendant Site. There has been no evidence detected at the site which would indicate previous efforts to salvage the shipwreck and/or its cargo, and Odyssey has maintained actual, continuous and exclusive possession or occupancy of the wreck site to the extent this is possible.

Odyssey is ready and able to conduct operations to explore and document the shipwreck, consistent with archaeological protocols appropriate for this site, and to recover additional artifacts from the Unidentified Shipwrecked Vessel.

Artifacts and objects recovered from the vessel will be turned over to the United States Marshal for the Middle District of Florida or a substitute custodian appointed by the Court for symbolic arrest *in rem*. Odyssey's survey and recovery operation has been, and will continue to be, conducted in accordance with all appropriate archaeological protocols as appropriate for the site, and under direction of an experienced nautical archaeologist. Once

the recovery of artifacts begins, at the Court's discretion, an artifact can be turned over to the United States Marshal for arrest *in rem*. Any artifacts recovered from the Unidentified Shipwrecked Vessel will be recovered under the jurisdiction of this Court and will be within the actual and/or constructive possession of this Court or its duly-appointed Substitute Custodian during the pendency of this action.

This Court has *in personam* jurisdiction over the Plaintiff. In addition, this Court has, or will have during the pendency of this action, jurisdiction over any potential claimant or competing salvor by virtue of their contacts to this forum; the nature of the Plaintiff's admiralty action; the relationship of the potential claimant and/or salvor to the Plaintiff, the forum and the cause of action; and/or under the principles of jurisdiction by necessity. This Court's exercise of jurisdiction over competing claimants and/or salvors is necessary to prevent irreparable injury to, or destruction of the Unidentified Shipwrecked Vessel, to allow the Plaintiff to continue its ongoing survey and recovery operations without interference; to bring the recovered artifacts within this District; and to prevent destruction of this Court's actual and potential jurisdiction.

Plaintiff has invested substantial, money and effort in locating, surveying, photographing and researching the history of the Unidentified Shipwrecked Vessel and in planning and conducting the physical recovery of artifacts from the Unidentified Shipwrecked Vessel.

By way of its Complaint, the Plaintiff asserts possessory and ownership claim pursuant to the Law of Finds. Plaintiff further asserts a salvage award claim pursuant to the law of salvage along with a claim for injunctive relief to protect the recovery operation.

Lastly, Plaintiff asserts a declaratory judgment pursuant to 28 U.S.C. § 2201(a) declaring that the Plaintiff has the authority to explore and recover the Unidentified Shipwrecked Vessel without the interference of any other salvor, claimant, agency, department or instrumentality of any government, domestic or foreign, and no other such entity has the power to grant, condition or deny the right of Plaintiff, Odyssey, to do so within the Defendant Site.

Rule E(4)(f), Supplemental Rules for Certain Admiralty and Maritime Claims, entitles any person claiming an interest in the vessel to a prompt hearing.

WHEREFORE, Plaintiff, Odyssey Marine Exploration, Inc., requests this Court to enter an order directing the Clerk to issue a warrant of arrest *in rem* against the Unidentified Shipwrecked Vessel, its apparel, tackle, appurtenances and cargo located within center point coordinates provided the Court under seal.

DATED this 18th day of June, 2008.

s/ Allen von Spiegelfeld

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