

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
Northern Division**

GREAT LAKES EXPLORATION)	
GROUP LLC)	
Plaintiff,)	
v.)	Civil Action No. 1:04-CV-
375)	
)	
The Unidentified, Wrecked and (For Salvage-)	
Right Purposes), Abandoned Sailing Vessel, etc.)	
Defendant, et al.)	

DECLARATION OF STEVEN J. LIBERT

Steven J. Libert, after first being duly sworn, deposes and states as follows:

1. I am an adult male. I have all my natural faculties. I am personally familiar with the facts stated in this Affidavit. My qualifications as an expert underwater diver and explorer are contained in the earlier affidavits that I have filed in this case.
2. I have previously noted my familiarity with the Defendant and my background and expertise in the area. I have dived in the area for nearly three decades, and I am thoroughly familiar with the geologic nature of the seabed floor, the currents, the changing conditions underwater during different times of the year, etc.
3. In preparing this Affidavit, I have reviewed the most recent Affidavit of Wayne Lusardi in support of the State's Motion for Summary Judgment. I have also reviewed the State's other materials and its answers to Great Lakes Exploration's

supplementary interrogatories and requests for production of documents. I have also considered the comparatively miniscule amount of time that the State devoted to diving on the wreck site. In contrast, as discussed below, the time that I have spent diving the area and investigating the Defendant is far more extensive and detailed.

4. For example, I have personally dived the site and surrounding areas of the defendant for six seasons. The majority of dives occurred during the months of June and July, as the weather conditions were more favorable and consistent with clear visibility and safe operations. On average three dives were conducted each day during a fourteen day period for five consecutive summers. All down dives lasted approximately forty five minutes to one hour. During the hundreds of hours investigating the area I visually observed countless numbers of cultural materials that may be associated with the shipwreck. It is sometimes difficult to recognize and identify such cultural deposits due to heavy currents and sometimes poor visibility (sometimes limited to a mere few inches to twenty feet, depending on depth of water and geographic location).

5. In Spring, 2006, our in-house team worked with Geomar Research, LLC and other experts in a follow-up exploration, salvage and underwater archaeological survey of the Defendant. As described in the Declaration of Stephen Bilicki, this work utilized professionally accepted and approved industry standard equipment and survey techniques. Work included acoustic data collection used a Klein 595 digital side scanning sonar system. Magnetic

data collection incorporated a Geometrics, Inc 882 Cesium Magnetometer allowing nose or deep tow capabilities, and the compilation of analysis utilizing both Remote Sensing and diving.

6. This analysis provided further corroboration that the scatter and debris areas appear that they may be part of a unitary shipwreck site. (As noted in the previous declaration of Mr. Bilicki, this included articulated and disarticulated timbers, magnetic anomalies, and multiple small mono-polar and di-polar magnetic signatures in confined areas).

7. Investigation into the artifact believed to be the bowsprit of the Griffin has corroborated that it indicates European ship construction techniques in France's New World settlements of the type that would have been utilized by Sieur de LaSalle. (This is based on the types of construction and distances (which are consistent with French measurements at that time). Radiocarbon dating confirms that the age is correct.

8. There are no coralline formations in the area, as the climate is too cold to support coral. To the best of my knowledge, there have never been coralline formations in the area for the past several thousand years. There is no coral on the site.

9. The lake bed floor in the area consists of soft sediments that is capable of being moved by hand without tools of excavation. The bottom varies in the areas of interest. For example, the sea floor in the area where the timber believed to be the

bowsprit is located consists of fine silt/sand mixed with very small (half pea size) particles of aggregate. In recent years there has been an infiltration of 10-20 cm coverage of zebra mussels. The sediment is easily removed using only the hand. If done correctly, the currents move away most cloud coverage of any residual silt.

10. While Mr. Lusardi suggests that a dredge may be appropriate, it is clear that no such tool of excavation is required to get access to the shipwreck. The photographs attached to Mr. Lusardi's affidavit clearly show that the bowsprit is accessible "as is." Further, the rest of the shipwreck should be accessible by digging carefully and painstakingly by hand. The use of mechanical devices could potentially cause the irreparable loss of information about the site.

11. As noted above, Mr. Lusardi's mistaken concern with visibility being obscured as a result of digging by is understandable, since he has not dived regularly on the site. If he dived there regularly, he would be familiar with the fact that visibility problems can be eliminated by diving during the correct times of the year when the current removes any residual silting. In addition, this area is also protected from very violent south winds and huge waves that rage havoc on Lake Michigan. This is due to the close proximity of an Island.

12. The bowsprit is clearly accessible without any effort. It is visible in the photographs taken, including those attached to Mr. Lusardi's affidavit, and it is accessible to anyone diving the site without any tools of excavation.

13. As a further example, two other areas of interest contained small parts of ship wreckage. The constructions were unique although very difficult to distinguish. They could have been planks from a ship's deck or hull. One piece appeared to be a small knee used to fasten the deck to the hull. No metal fasteners were observed. The bottom underneath of the artifacts in these areas is solid rock with light sedimentation. Although the sedimentation may sometimes obscure visual detection at the wrong times of the year, it is easily removed by hand fanning or hand digging

14. During my numerous dives on the site, I have seen that the bottom sediments move easily whenever any fanning takes place. For example, even the fanning of the fins worn by scuba divers when they swim in the area results in movement of the bottom sediments. Tools of excavation are not required to gain access.

15. In fact, it would be imprudent and counterproductive to use tools of excavation. Use of tools of excavation could cause damage to the artifacts and result in the irreparable loss of scientific information. Based on our current work, non-mechanical methods, such as hand fanning, air bags and other non-mechanical techniques, are the appropriate methods.

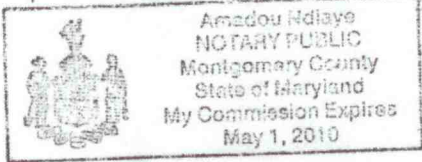
16. The shipwreck is clearly not "embedded" in the bottom lands of the State of Michigan as that term is defined in the Abandoned Shipwreck Act. As noted, I have dived on the wreck site numerous times and am thoroughly familiar with the bottom conditions

FURTHER AFFIANT SAYETH NAUGHT.

State of Maryland } ss:
County of Montgomery

I, Steven J. Libert, after being duly sworn this 4th day of February, 2009, declare under penalty of perjury that I have read the foregoing Affidavit and that it is true to the best of my knowledge and belief.


Steven J. Libert 02/04/09

Amadou NDiaye

Amadou Ndiaye
NOTARY PUBLIC
Montgomery County
State of Maryland
My Commission Expires
May 1, 2010