

301 713 4408;

301 713 4408;

Dec-12-01 8:10AM;

Page 2

11-31 TUE 05:09 PM USAO NORFOLK VA

FAX NO. 7574418689

P. 02/18

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION**

R.M.S. TITANIC, INC.,  
Successor in interest to  
Titanic Ventures, limited partnership,

Plaintiff,

v.

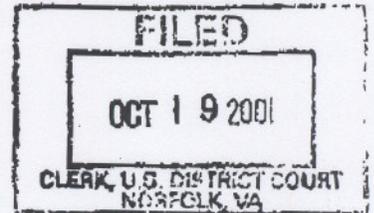
CIVIL ACTION NO. 2:93cv902

The Wrecked and Abandoned Vessel,  
...believed to be the R.M.S. TITANIC,  
in rem,

Defendant.

**ORDER OF AMENDMENT**

This Court's Order of September 26, 2001 is  
amended to include the following:



185

The R.M.S. *Titanic* has a history of its own that is different from any other. On its maiden voyage it sank after striking an iceberg. Many passengers and crew members died. The ship was a grave site, undisturbed for half a century. This queen of the sea flew the flag of Great Britain, a staunch ally of this country.

Congress has recognized the special nature of the wreck and the respect due the sunken vessel. The R.M.S. Titanic Maritime Memorial Act of 1986, 16 U.S.C. § 450rr et seq., seeks to encourage efforts to designate the R.M.S. *Titanic* as an international

maritime memorial. Congress directed the United States to enter into negotiations with Canada, France, the United Kingdom, and other interested nations to develop an international agreement that would designate the R.M.S. *Titanic* as an international maritime memorial and protect its scientific, cultural, and historical significance. 16 U.S.C. § 450rr-4.

By Order entered June 7, 1994, the Court awarded R.M.S. *Titanic*, Inc. ("RMST") salvor in possession status over the wreck and artifacts from the wreck. The salvors in possession of this vessel assured this Court throughout the pendency of this

case on the Court's docket that they would not sell the artifacts piecemeal and would keep them together to be seen and admired by many people. Before salvor in possession status was ever granted to RMST, the company assured the Court that RMST's intention was to exhibit, not sell, the artifacts that had been salvaged from the ship. See Tr. of Dec. 23, 1993 Hr'g at 10-11. The record is rife with similar representations RMST made to this Court. In its November 12, 1997 Periodic Report, RMST stated that

[t]he long-term intent of [its] research and recovery program is to keep the

Sent By: NOAA/GCOS;

301 713 4408;

Dec-12-01 8:11AM;

Page 6  
P. 06/18

002-30-01 TUE 05:11 PM USAO NORFOLK VA

FAX NO. 7574416688

artifacts recovered from the *Titanic* together as a "collection" and make them available for exhibition to the public. Pursuant to its charter agreements with IFREMER<sup>1</sup> the Company has agreed that the "collection" of artifacts would not be sold by the Company to any individual or private collector. However, if it became necessary to protect the interests of the Company, all of the artifacts as a "collection" could be sold to an entity that would make them available for exhibition to the public, subject to the restrictions of the company's agreement with IFREMER. [The agreement with IFREMER] defines "artifact" as any object that was either a part of the *Titanic* or a possession of a person on board. Coins, coal, currency, diamonds (non-jewelry), precious metals, and gem stones are not considered artifacts for purposes of the IFREMER agreements.

---

<sup>1</sup> IFREMER is the French government's oceanographic institute that had provided the salvage vessels, equipment, and technicians on past expeditions.

Nov. 12, 1997 Periodic Report at 7. More recent Periodic Reports similarly affirm that “[t]he long-term intent of RMST’s research and recovery program is to keep the artifacts recovered from the TITANIC together as a ‘collection’ and make them available for exhibition to the public.” Mar. 13, 2000 Periodic Report at 13;<sup>2</sup> Apr. 5, 2001 Periodic Report at 7.

In March, 2000, RMST affirmed the assurances it had previously made to this Court, as seen by

---

<sup>2</sup> In this Periodic Report, RMST made clear that it would meet its obligation to its shareholders. At that time, RMST anticipated that revenue from exhibitions of artifacts, combined with other sales and marketing efforts, would produce a profit such that RMST could continue to fulfill its obligations as salvor in possession as well as obligations to its shareholders. See Mar. 13, 2000 Periodic Report at 13-14.

answers to question posed by counsel for RMST to

Arnie Geller, the company's president. "Q: What are

the company's present plans with regard to

maintaining the collection of artifacts? A. Our

intentions haven't changed since we first stated those

early on in this courtroom many years ago. We

expect to recover objects from the wreck. We expect

to maintain the collection and keep it together and not

sell it off individually. . . . There are no plans to sell

any portion of the collection." Tr. of Mar. 22, 2000

Hr'g at 34. In the same hearing, Mr. Geller discussed

the restrictions in RMST's 1987 and 1993 charter

agreements with IFREMER, in which RMST had agreed that all artifacts recovered would be kept together as a collection and made available to the public; if ever sold, the artifacts would be sold as a collection to an entity that agreed to make the objects available for public exhibition. See Tr. of Hearing, March 22, 2000 at 38. Mr. Geller claimed that the current management of RMST had no plans to take actions inconsistent with the company's charter agreement with IFREMER. See id. at 39.

In addition, counsel for RMST provided the Court with a copy of a letter from George Tulloch,

former president of RMST and general partner of RMST's predecessor in interest, Titanic Ventures Limited Partnership. In that letter dated September 22, 1993 and addressed to Mr. Tricot, Head of Headquarters of Maritimes Affairs in Lorient, France, Mr. Tulloch wrote,

Titanic Ventures Limited Partnership (Titanic Ventures), as salvor, wishes to own the artifacts to which the owners or heirs have not been identified pursuant to the publicity measures implemented by the french [sic] authorities.

On this occasion, I hereby, on behalf of Titanic Ventures and as Director of Titanic Ventures, state that Titanic Ventures intends to make a respectfull [sic] use of the artifacts recovered from the Titanic in 1987 in memory of their

initial owners.

In this view, I indicate you [sic] that the artifacts will only be used on a cultural purpose and will not, therefore, be part of any operations which would lead to their dispersion, but to the exception of exhibition purposes, and none of the artifacts will be sold.

Letter from Tulloch to Tricot of Sept. 22, 1993, submitted by Mark S. Davis on behalf of RMST on January 5, 1994.

The Court has relied on these representations by RMST in many of its Orders. Most importantly, the Court relied on RMST's assurances when it granted RMST salvor in possession status in July, 1994. See supra, Tr. of Dec. 23, 1993 Hr'g at 10-11; see also

May 10, 1996 Order at 8, n. 10, and 21; July 28, 2000 Order at 1-2. The Court has often recited RMST's professed intent that it had no current or future plans to sell any artifacts. See, e.g., R.M.S. Titanic, Inc. v. The Wrecked and Abandoned Vessel, 9 F. Supp. 2d 624, 628 (E.D. Va. 1998); R.M.S. Titanic, Inc. v. The Wrecked and Abandoned Vessel, 924 F. Supp. 714, 717-18 (E.D. Va. 1996).

In fact, when RMST approached this Court in April, 2001 and first announced that it was interested in discussing the possibility of conveying the collection of artifacts to the newly created Titanic

Foundation, of which Arnie Geller is president, counsel for RMST explicitly communicated to the Court the understanding that RMST's being granted salvor in possession status was based in part on the understanding that the company intended to conserve and exhibit artifacts recovered from the wreck site.

See Tr of Apr. 9, 2001 Hr'g at 9.

This Court is well aware that circumstances change and it becomes necessary to change plans and approaches.

This Court, in its Order of September 26, 2001, did provide that the Court will consider any motions

of R.M.S. Titanic, Inc. on the disposition of the artifacts, none of which has been presented to date with any specificity.

The Court DIRECTS the Clerk to mail a copy of this Order to all counsel of record and to the Clerk for the United States Court of Appeals for the Fourth Circuit.

IT IS SO ORDERED.

*Robert C. Clarke*  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia  
October 19, 2001

*10-19-01 Copy mailed to Plaintiff's counsel*