

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

In re:

RMS TITANIC, INC. *et al.*,¹

Case No. 3:16-bk-02230-PMG
Chapter 11 (Jointly Administered)

Debtors

RMS TITANIC, INC.,

Plaintiff,

Adv. Pro. No. 3:16-ap-00183-PMG

vs.

FRENCH REPUBLIC,
a/k/a REPUBLIC OF FRANCE,

Defendant.

**PLAINTIFF'S NOTICE OF FILING DECLARATION OF
DAVID P. STEWART IN SUPPORT OF PLAINTIFF'S
MEMORANDUM OF LAW IN SUPPORT OF ITS (I) MOTION
FOR CLERK'S DEFAULT AGAINST DEFENDANT FRENCH
REPUBLIC, A/K/A REPUBLIC OF FRANCE AND (II) MOTION
FOR DEFAULT JUDGMENT AGAINST DEFENDANT
FRENCH REPUBLIC A/K/A REPUBLIC OF FRANCE**

Notice is hereby given that Plaintiff RMS Titanic, Inc. is filing the attached Declaration of David P. Stewart in Support of Plaintiff's Memorandum of Law in Support of Its (i) Motion for Clerk's Default Against Defendant French Republic, a/k/a Republic of France, and (ii) Motion for Default Judgment Against Defendant French Republic a/k/a Republic of France.

¹ The Debtors in the chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number include: RMS Titanic, Inc. (3162); Premier Exhibitions, Inc. (4922); Premier Exhibitions Management, LLC (3101); Arts and Exhibitions International, LLC (3101); Premier Exhibitions International, LLC (5075); Premier Exhibitions NYC, Inc. (9246); Premier Merchandising, LLC (3867); and Dinosaurs Unearthed Corp. (7309). The Debtors' service address is 3045 Kingston Court, Suite I, Peachtree Corners, Georgia 30071.

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By /s/ Daniel F. Blanks

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Co-Counsel for the Debtors and Debtors in Possession

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was electronically filed with the Clerk of the Court using CM/ECF on March 24, 2017. I also certify that the foregoing document is being served this day on the following counsel of record via transmission of Electronic Filing generated by CM/ECF:

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Via U.S. Mail

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/s/ Daniel F. Blanks
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UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

In re:

RMS TITANIC, INC. *et al.*,¹

Debtors

Case No. 3:16-bk-02230-PMG
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RMS TITANIC, INC.

Plaintiff,

vs.

Adv. Pro. No. 3:16-ap-00183-PMG

FRENCH REPUBLIC,
a/k/a REPUBLIC OF FRANCE

Defendant.

**DECLARATION OF DAVID P. STEWART IN SUPPORT OF PLAINTIFF RMS
TITANIC, INC.'S MEMORANDUM OF LAW IN SUPPORT OF ITS (I) MOTION FOR
CLERK'S DEFAULT AGAINST DEFENDANT FRENCH REPUBLIC, A/K/A REPUBLIC
OF FRANCE AND (II) MOTION FOR DEFAULT JUDGMENT AGAINST DEFENDANT
FRENCH REPUBLIC A/K/A REPUBLIC OF FRANCE**

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. My name is David P. Stewart. I am over the age of eighteen years. I have personal knowledge of, and am competent to testify to, the matters set forth in this Declaration.
2. Attached as Exhibit A is a copy of my curriculum vitae. I am admitted to the bars of the State of New York (First Department, 1972) and the District of Columbia (1980). I have earned the following degrees: A.B. from Princeton University (1966), J.D. from Yale Law

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School (1971), M.A. in international relations from Yale Graduate School (1971), and LL.M. in international legal studies from New York University (1976).

3. I am currently employed as a Professor from Practice at Georgetown University Law Center in Washington, D.C. From 1976 through 2008, I was employed with the Office of Legal Adviser for the U.S. Department of State (the "USDOS"), serving from 2005 to 2008 as the Assistant Legal Adviser for Private International Law for the USDOS. From 2001-2005, I served as the Assistant Legal Adviser for Diplomatic Law and Litigation for the USDOS. I retired from USDOS in 2008. Prior to joining the USDOS I worked in private practice in general commercial and antitrust litigation.

4. From 1984 to 2008, I was also employed as an Adjunct Professor of Law at the Georgetown University Law Center. At Georgetown University Law Center, I have taught or continue to teach the following courses: Introduction to International Law (2008-present), Private International Law (2008-present), International Law in Domestic Courts (2008-present), International Commercial Arbitration (1984-1992), International Criminal Law (1990-present), International Human Rights Law (1993-2003), Immunities in International Law (2004-present), International Civil Litigation (2004-2008), Foreign Relations Law (2006-2014) and Foreign Policy Implications of Private Litigation (2007-2008).

5. I also have taught international law courses at George Washington University Law School, University of Virginia School of Law, and American University. I have written and edited more than thirty articles, textbooks, and book reviews related to international law including, the Digest of U.S. Practice in International Law (co-editor of seven volumes), International Human Rights in a Nutshell (co-author), International and Transnational Criminal Law (co-author/textbook), The Foreign Sovereign Immunities Act: A Guide for Judges (Federal

Judicial Center 2013), and “Immunity and Accountability: More Continuity than Change” (co-author/article). I am currently serving as one of the co-Reporters on the American Law Institute’s project preparing the Restatement (Fourth) Foreign Relations Law of the United States, with specific responsibility (along with another co-Reporter) for the treatment of sovereign immunity.

6. I have been retained as an expert consultant by R.M.S. Titanic, Inc. to advise on sovereign immunity and international law issues in the adversary proceeding styled as *RMS Titanic, Inc. v. French Republic a/k/a Republic of France*, Adversary Proceeding Case No. 3:16-ap-00183-PMG (the “French Adversary Proceeding”).

7. The Foreign Sovereign Immunities Act (the “FSIA”) provides the exclusive basis for asserting jurisdiction over the Republic of France in the French Adversary Proceeding.

8. 11 U.S.C. § 106(a) establishes a clear and unequivocal waiver of sovereign immunity for these proceedings brought pursuant to §§ 105 and 363 of the Bankruptcy Code, such that the Republic of France may not properly assert sovereign immunity as a defense to the jurisdiction of this Court in the instant matter.

9. That statutory waiver of immunity is consistent with the terms of Article 13 of the 2004 United Nations Convention on the Jurisdictional Immunities of States and Their Properties (the “2004 UN Convention”), to which France is a state party, having signed it on January 17, 2007 and approved (ratified) it on April 12, 2011. Article 13 of the 2004 UN Convention waives sovereign immunity for any State Party before a court of another State in any proceeding which relates to the administration of property, including trust property and the estate of a bankrupt entity. I am personally familiar with the Convention, having served on the U.S. delegation to the United Nations Conference responsible for finalizing and approving the 2004 United Nations

Convention. (To date, the United States has neither signed nor ratified the 2004 UN Convention.)

10. I have reviewed the 1993 *proces verbal* and the documents related to it. I believe there is no conflict of law between the relief sought in the Adversary Proceeding and the *proces verbal*.

11. In my opinion, the prudential abstention doctrine known as international comity does not warrant this Court's abstention because I understand that the Debtor accepts the *proces verbal* as a valid and lawful instrument transferring title to the relevant artifacts to the Debtor and no true conflict therefore exists with foreign law, judgment or proceeding.

12. The act of state doctrine has no bearing on the Adversary Proceeding because the Debtor does not seek as relief in these proceedings an Order declaring the *proces verbal* to be invalid or unlawful, nor does the Debtor challenge the authority of the Republic of France to issue the *proces verbal* pursuant to *décret* 61-1547 (art. 13), the French Code of transportation or other maritime law acts.

[continued on following page]

13. I declare under penalty of perjury in the United States of America that the foregoing is true and correct.

14. Executed on this the 24th day of March, 2017.

David P. Stewart
DAVID P. STEWART

ACKNOWLEDGEMENT

STATE OF Washington, DC)
COUNTY OF _____)SS.
)

On the 24th day of March, 2017, before me personally appeared David P. Stewart, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names is subscribed to the foregoing instrument, who, being duly sworn, did depose and say that he/she executed the same in his/her authorized capacity, and acknowledged the instrument to be the free act and deed of Nasty Gal Inc. for the uses and purposes mentioned in the instrument.

Karen G. Bouton
Notary Public
Printed Name: Karen G. Bouton

My Commission Expires: 11/1/21

