



April 20, 2023

Hon. Rebecca B. Smith
Judge, United States District Court
Eastern District of Virginia
600 Granby Street
Norfolk, Virginia 23510

Re: OceanGate Expeditions, Ltd.'s 2023 *Titanic* Expedition

Dear Judge Smith:

I am a legal and operational advisor to OceanGate Expeditions, Ltd., a Bahamian corporation that plans to undertake a series of photographic and scientific survey expeditions at the wreck site of the *R.M.S. Titanic* during the summer of 2023. As I have for the past three years, I write to advise the Court of OceanGate Expeditions' plans, and to assure the Court and the parties that all activities will be conducted in accordance with the precedent set by the United States Court of Appeals for the Fourth Circuit in *R.M.S. Titanic, Inc. v. Haver*, 171 F.3d 943, 969-71 (4th Cir.), *cert. denied*, 528 U.S. 825 (1999) ("*Haver*"), and the National Oceanic and Atmospheric Administration's ("NOAA") Guidelines for Research, Exploration and Salvage of *RMS Titanic* ("NOAA Guidelines").

OceanGate Expeditions has no intention of disturbing the *R.M.S. Titanic* or interfering with *R.M.S. Titanic, Inc.*'s ("RMST") rights as salvor-in-possession, or of violating this Court's orders with respect thereto. On the contrary, OceanGate Expeditions acknowledges and respects this Court's exclusive authority and jurisdiction to manage activities at the *Titanic* wreck site. *See Haver*, 171 F.3d at 967-69.

A. Background/Update

Since my November 10, 2022 letter to the court, OceanGate Expeditions has continued to disseminate wreck site video and other media to the general public. Their videos (available on YouTube and other social media sites) have been viewed over five million times. The company has also conducted lectures and given many live interviews to television, radio and print media. The company, in collaboration with OceanGate Foundation, has brought scientists and archaeologists on most dives. The participating scientists are compiling and analyzing their findings. The company and science team collaborated with eDNAtec, headquartered in St. John's Newfoundland, to analyze environmental DNA found in water samples collected near the wreck and at a natural reef site nearby. This collaboration will continue in 2023. eDNAtec intends to

make all gene sequences available through GenBank at the conclusion of their analysis.

B. The 2023 *Titanic* Expedition

The 2023 *Titanic* Expedition will begin in early May and continue in 8-day segments until the end of June 2023. Given the massive scale of the wreck site and ongoing natural changes, continued observation over many years will be required to fully document and characterize the wreck and surrounding debris field, monitor changes to the structures and the natural site, and describe the ecology of the site. This longitudinal survey to collect still images, video, sonar data and water samples will provide an objective basis for meaningful assessment of the decay of the wreck over time and will help document and preserve its submerged history.

The 2023 *Titanic* Expedition is the third undertaken by OceanGate Expeditions. The exploration team will survey the wreck in collaboration with scientific and imaging experts from multiple organizations as part of an on-going long-term study to document the current condition of the *Titanic* maritime heritage site. Among other things, OceanGate Expeditions plans to:

- Supplement the work done on previous scientific expeditions to capture data and images for the continued scientific study of the ecology and archaeology of the site.
- Document the condition of the wreck with high-definition photographs and video.
- Document and characterize the flora and fauna inhabiting the wreck site for comparison with data collected on prior scientific expeditions to better assess changes in the habitat and maritime heritage site.
- Share a library of still images and video with the public.
- Freely share content with the academic community for research purposes.
- Share information with NOAA, as a courtesy and in the interest of working collaboratively as OceanGate has done with NOAA on prior expeditions (such as the Farallon Islands and Lionfish expeditions).

The expedition is scheduled to depart from St. John's, Newfoundland in early May 2023, with scientists, content experts, and mission specialists joining the crew. The expedition crew size for each mission is about 60 people, including six mission specialists, submersible pilots, operations crew, ship's crew and content experts. *See* <https://oceangateexpeditions.com/titanic/the-mission>.

Several of the crew members, including myself, have experience either participating in or leading multiple expeditions to the *Titanic*. Qualified individuals join the crew as mission specialists to support the mission by helping to underwrite the expedition and by actively assisting the team aboard the submersible and the ship in roles such as communications,

navigation, sonar operation, surveying, photography, and dive planning.

The expedition will utilize the Canadian vessel *Polar Prince*, owned by Miawpukek Horizon and operated by Horizon Maritime, as a support vessel. The *Polar Prince* is a medium duty icebreaker with Arctic Class 1+. *Polar Prince* was formerly operated by the Canadian Coast Guard as the *Sir Humphrey Gilbert*.

Each dive will consist of the deployment of the 5-person submersible *Titan*, which has a 4,000m/13,120 ft. depth capability (with a comfortable safety margin). Constructed of titanium and filament wound carbon fiber, the innovative vessel has proven to be a safe and comfortable vessel proven to withstand the enormous pressures of the deep ocean. *Titan* is equipped with state-of-the-art technology, providing an unrivaled view of the deep ocean. *Titan's* viewport is the largest of any deep diving submersible. Several exterior cameras provide a constant, live view of the outside environment. Crew members within the submersible can access each external camera view on a large digital display, or on a hand-held tablet. With the click of a button on their personal tablets, each Mission Specialist can change the camera angle, monitor the sonar, or view preloaded images of deep-sea species.

Titan is equipped with four 10 hp electric thrusters which make it highly maneuverable, and it is capable of traveling at speeds of up to three knots. The submersible weighs 20,000 pounds in air, but it is ballasted to be neutrally buoyant once it reaches the seafloor. The submersible is always operated to remain clear of contact with the seabed, geology and wrecks. The submersible will always approach the *Titanic* from a down-current position, facing into the current as if flying into a headwind, to further reduce the submersible's speed and increase its maneuverability when navigating near and over the wreck and wreck site.

Titan will accurately and safely navigate the wreck and debris field using positioning data provided from an EvoLogics USBL system, which transmits tracking data and communications messages back and forth between the surface support ship and the sub crew. In addition, a multi-beam sonar unit affixed to a pan and tilt system allows for near 360-degree object recognition to high resolution up to 100 meters distant. High-definition cameras provide views fore, aft, and below the submersible, throughout each dive.

Titan does **not** have manipulator arms or any means of retrieving artifacts from the sea floor. No salvage or retrieval of artifacts, coral or rusticles will be conducted. All of the operations planned for the *Titanic* site will be "look but don't touch" in accordance with the type of expeditions expressly authorized by the United States Court of Appeals for the Fourth Circuit in *Haver*, 171 F.3d at 969-71. Any ballast dropped by the submersible will be deposited well clear of the wreck. No additional material will be deposited, and no black water or grey water will be discharged within 15 nautical miles of the wreck site.

Operations will be concluded by the end of June 2023. OceanGate is not aware of any other expeditions that may be planning to visit the *Titanic* site during the time period that it intends to be on-site but, if they do, having two or more ships and submersibles operating on site

at the same time is a common occurrence. All my prior dives to the *Titanic* were performed with two submersibles and sometimes a third remotely operated vehicle working in close proximity.

The expeditions will be conducted respectfully and in accordance with the NOAA Guidelines, with which – as I have outlined – we are intimately familiar. OceanGate Expeditions is mindful of NOAA’s interest in implementing Section 113 of the Consolidated Appropriations Act, 2017. However, as James Delgado, Ph.D., the former director of maritime heritage for NOAA’s National Marine Sanctuaries program, pointed out in his submission to the Court in 2021, a mission such as this, which will not be “conducting any research, exploration, salvage or other activity that would physically alter or disturb the wreck or wreck site of RMS *Titanic*,” does not fall under Section 113 of the 2017 Act, or the International Agreement concerning the *Titanic*, as it is a non-disturbance data gathering mission. See ECF No. 636-1.

Finally, OceanGate Expeditions does not intend to infringe on any intellectual property rights of RMST.

If you would like any further information, please do not hesitate to contact me. Also, if you would like to personally participate in 2023 *Titanic* Survey Expedition, you are more than welcome to do so as a guest of OceanGate Expeditions.

Respectfully,

A handwritten signature in cursive script that reads "David G. Concannon".

David G. Concannon

cc: Jackie Rolleri, Esq., NOAA
Brian Wainger, Esq., RMST
Kent Porter, Esq., DOJ