

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

GLOBAL MARINE EXPLORATION,
INC.,

Plaintiff,

v.

Case No. 4:20-cv-181-AW-MJF

REPUBLIC OF FRANCE,

Defendant.

ORDER GRANTING SUMMARY JUDGMENT

Global Marine Exploration, Inc. (GME), as its name suggests, is a marine exploration company. Several years ago, it discovered centuries-old shipwrecks off the coast of Cape Canaveral. Claiming ownership of the ships and any artifacts, GME brought an *in rem* admiralty action. *Glob. Marine Expl., Inc. v. Unidentified, Wrecked & (for Finders-Right Purposes) Abandoned Sailing Vessel (“GME I”)*, 348 F. Supp. 3d 1221 (M.D. Fla. 2018). France and the Florida Department of State (FDOS) intervened, and the district court determined that one of the ships was *la Trinité*, a sixteenth century vessel that had served as the flagship of French Captain Jean Ribault’s ill-fated mission to reinforce France’s colonial presence in Florida. *Id.* at 1224-25, 1242.

The fact that the ship GME found was *la Trinité* meant it was France’s sovereign property, which in turn meant the court lacked subject-matter jurisdiction.

Id. at 1225-26. The court dismissed, and GME did not appeal that decision. Instead, it filed this *in personam* action against France. Here, conceding it has no *in rem* claim to *la Trinité*, ECF No. 69 (Resp.) at 20, GME presents four claims: (1) *in personam* lien award to compensate GME for finding *la Trinité*; (2) “quasi contract/unjust enrichment” to recover the value of services rendered; (3) trade secret misappropriation; and (4) tortious interference regarding GME’s relationship with FDOS. ECF No. 3 (FAC) at 12-20.

This court previously granted France’s motion to dismiss based on the Foreign Sovereign Immunities Act, 28 U.S.C. § 1602 *et seq.* ECF No. 29 at 3. The Eleventh Circuit reversed, though, concluding that the FSIA’s commercial activity exception applied and that this court therefore had subject-matter jurisdiction. *Glob. Marine Expl., Inc. v. Republic of Fr.*, 33 F.4th 1312, 1315 (11th Cir. 2022).

On remand, France has moved for summary judgment. ECF No. 59 (Motion). After a hearing, and having carefully considered the record and the extensive briefing, I now conclude France is entitled to summary judgment.

BACKGROUND

The facts come from the record, viewing the evidence and making all reasonable inferences in the light most favorable to GME. *Essex Ins. Co. v. Barrett Moving & Storage, Inc.*, 885 F.3d 1292, 1299 (11th Cir. 2018). Under this standard, the “‘facts’, as accepted at the summary judgment stage of the proceedings, may not

be the ‘actual’ facts of the case.” *Priester v. City of Riviera Beach*, 208 F.3d 919, 925 n.3 (11th Cir. 2000). What follows are the facts as accepted at this stage.

In 2015, GME entered into an authorization agreement with the FDOS and obtained an exploration permit. *See* ECF No. 53-6. GME then discovered five shipwreck sites off the coast of Cape Canaveral. It suspected (correctly, as it turned out) that site #2 was *la Trinité*.

GME thought it might have found the remains of Ribault’s fleet. As its authorization agreement required, GME informed the FDOS and the Florida Division of Historical Resources (FDHR) about its discovery. GME submitted a “Notification of Find Report,” explaining that GME “discovered possibly 2 Bronze cannon[s]” it believed were of French origin and could be from Ribault’s expedition. ECF No. 53-9 at 2-3, 8. GME asked the FDHR to approve a recovery permit so it could recover the artifacts. Tim Parsons, the State Historic Preservation Officer, responded to the request and explained that the FDHR had “reach[ed] out to the French government” because “[a]s [GME] pointed out, if these sites belong to Ribault’s fleet they could be extremely significant to the history of Florida, and France.” ECF No. 53-10 at 2.

In May 2016, GME emailed the French Embassy to inquire about making an agreement with France if the ship turned out to be *la Trinité*. ECF No. 53-12 at 2. In

response, the French Embassy issued a Diplomatic Note stating France's opposition to "any commercial exploration on the vessel." ECF No. 53-4 at 11.

GME then filed a Final Dig & Identify Report and Request for Rescue Recovery Permit with the FDHR. ECF No. 53-2. In the report, GME acknowledged that "France, Spain, England and other countries must be contacted," and that "[e]ven though we do not know what these finds are, there should be an understanding with France and others." *Id.* at 6.

In mid-July 2016, GME followed up on its request for an FDHR recovery permit. Tim Parsons told GME that the FDHR needed more information, most importantly "the coordinates of the archaeological material and site features." ECF No. 63 at 5. This was "not only for [the FDHR]'s potential assessment of the site, but it [was] also necessary to advance the discussion with the appropriate French authorities." *Id.* GME explained to Parsons that it omitted the coordinates because it did not want them to "become public information" and "GME want[ed] to protect the site(s)." *Id.* at 6. Parsons responded and informed GME that the FDHR was exempt from Florida's public records law, so the coordinates would not be publicly divulged. *Id.* at 8. GME then provided the specific coordinates.

On July 21, 2016, GME emailed the French Embassy's press officer to confirm France's position on salvaging the ship. ECF No. 53-13 at 2-3. The officer stated that if the vessel "happens to be part of the Royal fleet then yes [France]

want[s] to make sure that no commercial exploitation whatsoever is operated in any way on what is a piece of cultural heritage.” *Id.* at 4. GME responded that it “respect[s] France’s wishes and the sovereign international law.” *Id.* at 5.

GME never obtained a recovery permit from the FDHR. It later filed the *in rem* action described above. *GME I*, 348 F. Supp. 3d at 1223-24. It then filed this *in personam* action.

STANDARD

On a motion for summary judgment, the moving party bears the burden of showing “there is no genuine issue as to any material fact” and that it “is entitled to judgment as a matter of law.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986) (quoting Fed. R. Civ. Pro. 56(c)). France can meet its burden by showing that GME “has failed to make a sufficient showing on an essential element of [its] case with respect to which [it] has the burden of proof.” *Id.* at 323. If France does so, “there can be ‘no genuine issue as to any material fact,’ since a complete failure of proof concerning an essential element of [GME’s] case necessarily renders all other facts immaterial.” *Id.*

DISCUSSION

GME seeks an *in personam* lien award based on federal admiralty law. It also advances Florida-law claims for “quasi contract/unjust enrichment”; trade secret misappropriation; and interference with rights and relations. FAC at 12-20. France’s

principal argument is that GME's claims are all barred by the Sunken Military Craft Act (SMCA), Pub. L. No. 108-375, §§ 1401-08, 118 Stat. 1811, 2094-98 (2004). Motion at 18. That law provides that "[n]o salvage rights or awards shall be granted with respect to . . . any foreign sunken military craft located in United States waters without the express permission of the relevant foreign state." *Id.* § 1406(d)(2). In France's view, this statute precludes not only GME's federal admiralty claim but also all other claims because the Eleventh Circuit concluded the "gravamen" and "core" of GME's claims are "France's failure to compensate GME for the value of GME's salvage services." Motion at 3 (quoting *Glob. Marine Expl., Inc.*, 33 F.4th at 1324-25); *see also id.* at 20. GME offers two responses. It says first that the SMCA applies only to *in rem* actions. It alternatively argues that if the SMCA applies, there is a disputed fact about whether *la Trinité* was a "foreign sunken military craft."

The SMCA's Application is Not Limited to *In Rem* Actions.

First, GME argues that the SMCA does not apply to *in personam* actions. Resp. at 17. But that is inconsistent with both the statute's text and general principles of salvage law. The text makes no distinction between *in personam* and *in rem* actions. It prohibits granting "salvage rights or awards." § 1406(d). And salvage rights or awards can be granted in an *in rem* or an *in personam* action. *Treasure Salvors, Inc. v. Unidentified Wrecked & Abandoned Sailing Vessel*, 640 F.2d 560, 567 (5th Cir. 1981) ("[A] salvor may assert his right to a salvage award either in an

in rem proceeding against the salvaged vessel or cargo or in an in personam proceeding against the owner of the salvaged property.”); *see also* 3A *Benedict on Admiralty* § 288 (2023) (“Generally, a suit for a salvage award is one brought *in rem* against the ship The salvor also has his remedy *in personam* against the owners of the salvaged property”).¹ In fact, the Supreme Court recognized that plaintiffs could bring *in rem* or *in personam* salvage award suits as early as 1879. *See The Sabine*, 101 U.S. 384, 386 (1879). Against this historical backdrop, there is no indication that Congress chose to limit the SMCA’s application solely to *in rem* actions. It follows that the SMCA applies to bar salvage award claims whether *in rem* or *in personam*.

In arguing otherwise, GME points to language from § 1402(a), which generally prohibits engaging in “activity directed at a sunken military craft that disturbs, removes, or injures any sunken military craft.” Resp. at 19. But as France notes, § 1402 is a separate provision that deals with the disruption of sunken military crafts. ECF No. 71 at 3. It is enforced by penalties in § 1404 and § 1405. In contrast, § 1406(d)’s broad prohibition against salvage awards falls under a heading titled “Relationship to Other Laws” and does not reference any of the proceeding sections. Thus, § 1402(a) should not be read to limit § 1406(d).

¹ Fifth Circuit decisions issued before October 1, 1981 are binding precedent. *See Bonner v. City of Pritchard*, 661 F.2d 1206, 1209 (11th Cir. 1981).

***La Trinité* is a Foreign Sunken Military Craft, and the SMCA Precludes GME’s Claim for a Salvage Lien.**

GME next argues that even if the statute applies to *in personam* actions, it does not apply here because *la Trinité* is not a “sunken military craft,” which the SMCA defines as “any sunken warship, naval auxiliary, or other vessel that was owned or operated by a government on military noncommercial service when it sank.” § 1408(3)(A). France disagrees, arguing first that the issue was resolved in *GME I* and second that the summary-judgment record shows indisputably that *la Trinité* was, in fact, a “sunken military craft.” France is wrong on the first point but right on the second.

France focuses much of its argument on collateral estoppel. It contends that “it is *res judicata* and a matter of collateral estoppel that *la Trinité* was both a warship of France and a vessel owned and operated by France in military non-commercial service at the time of sinking.” Motion at 5 (citing *GME I*, 348 F. Supp. 3d at 1242-43).² But in *GME I*, the court had no reason to decide whether *la Trinité* was a military craft or some other craft. It was “undisputed that *la Trinité* is the sovereign property of the Republic of France.” 348 F. Supp. 3d at 1242. The “lone

² As France acknowledged at the hearing, claim preclusion would not apply here because the *GME I* was dismissed for lack of subject-matter jurisdiction and therefore was not an adjudication on the merits. Rough Trans. at 34; *see also Davila v. Delta Air Lines, Inc.*, 326 F.3d 1183, 1188 (11th Cir. 2003) (noting that jurisdictional dismissals cannot support claim preclusion). But issue preclusion can still apply in these circumstances.

issue” was whether the ship GME found was *la Trinité*. *Id.* at 1228. The court concluded it was, and it dismissed the claim for lack of subject-matter jurisdiction.

It is true that in its detailed historical findings, the court concluded *la Trinité* was a military vessel, but this was not a necessary part of the claim that was “actually litigated.” See *In re St. Laurent*, 991 F.2d 672, 676 (11th Cir. 1993), *as corrected on reh’g* (June 22, 1993) (noting that for issue preclusion to apply, the issue must have been “actually litigated in the prior proceeding” and that “the prior determination of the issue must have been a critical and necessary part of the judgment in the earlier decision”); see also *B & B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138, 148 (2015). Because *la Trinité*’s status as a military vessel was not essential to, or actually litigated in, *GME I*, it cannot have a preclusive effect in this case.

France alternatively argues that the summary-judgment record shows *la Trinité* is a “sunken military craft.” As noted above, the statute defines the term to include “any sunken . . . vessel that was owned or operated by a government on military noncommercial service when it sank.” § 1408(3)(A). All agree that *la Trinité* is a sunken vessel that was owned by France. The question is whether it was “on military noncommercial service when it sank.” On this point, France met its initial summary-judgment burden.³

³ France contends that the historical evidence relied upon by *GME I* to determine the vessel was *la Trinité* also supports that *la Trinité* was on military

France's historian, Dr. Frank Lestringant, states in his declaration that after Ribault arrived in Florida, the French had a close encounter with Pedro Menéndez de Aviles's Spanish fleet. ECF No. 71-5 at 16.⁴ Menéndez, a Spanish captain, had been ordered by Spain to pursue Ribault and to eliminate Fort Caroline, France's nascent colony in Florida. *Id.* at 15-16. "During the night of September 4, 1565, the warships of the Menéndez fleet approached the Ribault warships anchored offshore, but the Ribault warships cut their anchor cables and sailed away." *Id.* at 16. Alerted to the Spanish threat and Menéndez's hostile intentions, Ribault sent a ship to follow the Spanish. *Id.* He learned that Menéndez was setting up a base along the St. Augustine Inlet to the south. *Id.* After docking at Fort Caroline, "Ribault decided to attack Menéndez at St. Augustine Inlet and began preparing to sail with *la Trinité* and three of his other larger ships." *Id.* He supplemented the strength of this

noncommercial service when it sank. ECF No. 71 (Reply) at 5. France has provided that same evidence here and supplemented its Reply brief with two declarations referenced in *GME I*. The declaration from Dr. Frank Lestringant, ECF No. 71-5, consists of the sixteenth century French reports and documents about *la Trinité* that *GME I* cited. *See* ECF No. 71-1 ¶ 9. The declaration from Dr. James Delgado, ECF No. 71-6, contains the 16th century Spanish reports about *la Trinité* that *GME I* cited. *See* ECF No. 71-1 ¶ 9.

⁴ This evidence was submitted with France's reply. At GME's request, the court allowed a surreply so that GME could respond with its own evidence, which it did. The court thus had the benefit of extensive briefing and multiple evidentiary submissions from both parties. ECF Nos. 59, 69, 71, 78. The court then held a hearing and permitted both parties to file additional briefing afterward. ECF Nos. 84, 87.

expedition with additional “soldiers from the Fort Caroline garrison.” *Id.* “On September 8, 1565, the Ribault warships left their anchorage and sailed south to attack Menéndez at St. Augustine Inlet.” *Id.* On its way to attack the Spanish, *la Trinité* was caught in a massive hurricane and sank along with the rest of the French fleet. *Id.*

France’s evidence thus asserts that *la Trinité* sank while on a military mission to attack Menéndez’s Spanish forces. This falls within the SMCA definition of “military noncommercial service.” § 1408(3)(A). To avoid summary judgment on Count One, then, GME had to present evidence from which a reasonable factfinder could conclude otherwise. While GME makes several tangential arguments concerning the broader history of Ribault’s voyage, it ultimately does not point to any evidence that contradicts France’s assertion that *la Trinité* was “on military noncommercial service when it sank.” § 1408(3)(A).

GME contends that *la Trinité* was a cargo ship, not a military ship, and that Ribault’s mission to reinforce Fort Caroline was one of civilian resupply. Resp. at 4, 24. It cites the verified statements of Dr. Robert Baer and Dr. Lubos Kordac, which say as much. Dr. Kordac writes, “[*la Trinité*] was not any military ship, [it] was a cargo ship, bringing supplies, civilians and money to the new French colony.” ECF No. 65 at 3. But for SMCA purposes, whether *la Trinité* was a cargo ship or a “military ship” is of no consequence. The Act covers “any sunken warship, naval

auxiliary, or other vessel that was owned or operated by a government on military noncommercial service when it sank.” § 1408(3)(A) (emphasis added). Similarly, the overall purpose of Ribault’s mission is irrelevant; what matters is whether *la Trinité* was “on military noncommercial service.” § 1408(3)(A). In this regard, neither Dr. Baer’s nor Dr. Kodac’s declaration contradicts France’s evidence that *la Trinité* sank while on a mission to attack the Spanish fleet. See ECF Nos. 64, 65.

Dr. Baer’s initial statement calls into question the existence of a French Royal Navy in 1565 and asserts that “the French Huguenot vessels, although armed with cannons for self-protection, were not ‘Naval’ vessels or ‘Crown’ vessels, they were cargo vessels on a re-supply mission to the Huguenot colony on the Atlantic Coast of present north Florida.” ECF No. 64 at 3-4; *accord id.* (“During the civil wars after 1560, the French Navy disappeared for all practical purposes. French maritime exploits of this period . . . were organized along private or quasi-private lines.”). Baer’s statement squares with France’s evidence that Ribault’s fleet sailed to Fort Caroline to provide supplies and reinforcements. Baer’s statement does not discuss the circumstances surrounding *la Trinité*’s sinking, so it does not contradict France’s evidence that *la Trinité* sank while sailing to the St. Augustine Inlet to attack the Spanish. It therefore does not create a dispute of material fact over *la Trinité*’s military noncommercial service.

Dr. Kordac’s statement says Spain and France were not at war when *la Trinité* sank. ECF No. 65 at 3. This too is consistent with France’s evidence, which shows France and Spain were competing to colonize Florida and makes no mention of their being at war. Kordac also acknowledges that Menéndez “attacked and destroyed Fort Caroline,” admitting that while France and Spain might not have been formally at war, there remained a threat of conflict between the two nations. Kordac states that *la Trinité* sank because of a hurricane, not because of “a naval encounter with [Menéndez’s] Spanish war fleet.” *Id.* This is also consistent with France’s evidence. And it is also immaterial. A “sunken military craft” need not sink *during* a naval encounter—or because of combat. Kordac does not specifically address where *la Trinité* was or what it was doing when it sank, so it does not meaningfully contradict France’s evidence.

In its surreply, GME makes additional arguments that *la Trinité* was not performing military noncommercial services when it sank. ECF No. 78 at 3. Relying heavily on historian John McGrath’s work, *The French in Early Florida: in the Eye of the Hurricane*, GME contends that “the only *Crown-sanctioned* purpose for *La Trinité*’s voyage was [the] commercial transportation of people and cargo.”⁵ *Id.* at

⁵ While repeatedly citing McGrath’s historical analysis to support its argument that Ribault’s mission was commercial, GME omits McGrath’s conclusion about the nature of the voyage:

3-6 (emphasis added). GME also presents the declarations of French historian Emmanuelle Lizé and archeologist James Sinclair to support the contention that Ribault's attack on the Spanish was not "Crown sanctioned."⁶ Lizé concludes that "[t]he King of France permitted Ribault's 1565 journey only to transport Protestant dissenters to Fort Caroline; any war activities were prohibited." *Id.* at 9 (summarizing Lizé statement). Sinclair echoes this finding, writing "*La Trinité* was a state-sanctioned voyage permitted [sic] only the transport of families, farmers, and food to Fort Caroline." ECF No. 77-4 ¶ 6. Ultimately though, this analysis misses the point. Even if Ribault lacked the King's permission to engage in war, and even if the mission included shipping Protestants, what matters is what *la Trinité* was doing when it sank. Sinclair asserts that "[*La Trinité*] sank in a hurricane, not because of a military attack or engagement." *Id.* ¶ 19. But, as explained with Dr. Kordac's

It is difficult to conclude on the basis of this evidence that, by the time the French sailed, this was merely a civilian reinforcement intended to augment the workforce in Florida and establish "effective settlement." Whatever the composition of this fleet had been originally, by May it had become a heavily armed mission of war, intent upon defending Fort Caroline from an anticipated Spanish attack.

ECF No. 77-1 at 25. (GME cites this same page for other purposes.)

⁶ Lizé's declaration includes no citations but attaches some 200 pages of source materials, largely in French. Parties must cite "particular parts of materials in the record" to support factual assertions. Fed. R. Civ. P. 56(c)(1)(A). And "[t]he court need consider only the cited materials." *Id.* 56(c)(3). In my discretion, I have declined to consider evidence that is not pinpoint cited in the parties' documents, except as otherwise addressed in this order. *See* N.D. Fla. Loc. R. 56.1(F). I have also not considered any untranslated materials.

similar assertion above, this is in accord with France's evidence. Nothing in the declarations of McGrath, Lizé, or Sinclair contradicts France's evidence that the *la Trinité* sank while on a mission to attack Menéndez's forces. See ECF Nos. 77-1, 77-3, 77-4, and 78.

GME does offer evidence directly contradicting some of Dr. Lestringant's historical assertions, but only on immaterial points. For example, relying on historian Charles Bennett's work, GME contends Lestringant was wrong to conclude that the French King sent a different French captain to avenge the Spanish destruction of Fort Caroline after *la Trinité*'s sinking. *Id.* at 6-7. Lizé's declaration pushes back on Lestringant's positions that *la Trinité* was a warship and that Ribault's voyage from France to Florida was ordered by the King as a "military exercise." *Id.* at 2, 8. But none of this contradicts Lestringant's assertion that *la Trinité* sank while sailing to attack the Spanish.

Because GME points to no evidence contradicting the contention that *la Trinité* sank while on a mission to attack the Spanish fleet, it has not disputed France's showing that the ship was on "military noncommercial military service when it sank." § 1408(3)(A).

* * *

France has presented sufficient uncontested evidence to establish *la Trinité* sank while on military noncommercial service, meaning *la Trinité* is a "sunken

military craft” under the SMCA. GME may not obtain a salvage award from France, so GME’s Count One, which asserts entitlement “to a salvage and/or maritime lien,” FAC ¶ 39, cannot succeed.

France contends that the SMCA should bar *all* GME’s claims. ECF No. 59 at 18. I am doubtful that the SMCA would reach the state-law claims of unjust enrichment, trade secret misappropriation, and tortious interference with a business relationship—even if the “gravamen” or “core” of GME’s claims relate to the same facts. But I need not decide that issue because GME’s other claims independently fail on the merits.

France is Entitled to Summary Judgment on the “Quasi Contract/Unjust Enrichment” Claim.

GME’s next claim is for “quasi contract/unjust enrichment.”⁷ FAC at 13-14.

Under Florida law, unjust enrichment claims “prevent the wrongful retention of a

⁷ The complaint alleges GME can “enforce a claim for unjust enrichment or *quantum meruit* against France, *i.e.*, by contract implied at law.” FAC ¶ 47. This conflates unjust enrichment and quantum meruit claims. The “remedy of quantum meruit derives from contracts implied in fact,” while an unjust enrichment claim derives from a contract implied at law. *Tooltrend, Inc. v. CMT Utensili, SRL*, 198 F.3d 802, 806 & n.4 (11th Cir. 1999) (cleaned up) (applying Florida law). As France notes (Motion at 25), to the extent GME intended to raise a quantum meruit claim, it cannot succeed because the parties did not have any sort of agreement. *Id.* at 806 (explaining that quantum meruit is a remedy for contracts implied in fact, meaning contracts where “the parties have in fact entered into an agreement but without sufficient clarity”); *see also Com. P’ship 8098 Ltd. P’ship v. Equity Contracting Co.*, 695 So. 2d 383, 387 (Fla. 4th DCA 1997) (en banc) (“[A] common form of contract implied in fact is where one party has performed services at the request of another

benefit, or the retention of money or property of another in violation of good conscience and fundamental principles of justice or equity.” *Marrache v. Bacardi U.S.A., Inc.*, 17 F.4th 1084, 1101 (11th Cir. 2021) (quoting *State Farm Fire & Cas. Co. v. Silver Star Health & Rehab.*, 739 F.3d 579, 584 (11th Cir. 2013)). For an unjust enrichment claim, a plaintiff must show “(1) [he] has conferred a benefit on the defendant, who has knowledge thereof; (2) the defendant has voluntarily accepted and retained the benefit conferred; and (3) the circumstances are such that it would be inequitable for the defendant to retain the benefit without paying the value thereof.” *Tooltrend, Inc. v. CMT Utensili, SRL*, 198 F.3d 802, 805 (11th Cir. 1999) (citing *Greenfield v. Manor Care, Inc.*, 705 So. 2d 926, 930-31 (Fla. 4th DCA 1997)); *see also Pincus v. Am. Traffic Sols., Inc.*, 333 So. 3d 1095, 1097 (Fla. 2022).

GME contends France unjustly benefited from GME’s efforts to discover, photograph, and locate France’s property (*la Trinité*). Resp. at 26-27. But Florida courts hold that “[w]here unjust enrichment is asserted, a party is liable for services rendered only when he requests the other party to perform the services or knowingly and voluntarily accepts their benefits.” *Coffee Pot Plaza P’ship v. Arrow Air*

without discussion of compensation. These circumstances justify the inference of a promise to pay a reasonable amount for the service. . . . [By contrast], where there is no enforceable express or implied in fact contract but where the defendant *has* received something of value, or has otherwise benefitted from the service supplied, recovery under a quasi contractual theory may be appropriate.” (citation omitted).

Conditioning & Refrigeration, Inc., 412 So. 2d 883, 884 (Fla. 2d DCA 1982) (citing *Nursing Care Servs. v. Dobos*, 380 So. 2d 516 (Fla. 4th DCA 1980)). France never requested GME's services. Likewise, France did not knowingly and voluntarily accept the benefits of GME's services because "it did not come into control of [*la Trinité*] until after [GME] had completed the work." *Id.*; *see also id.* (explaining that landlord had not knowingly and voluntarily accepted the benefit of refrigerator repairs that former tenant hired defendant to perform because landlord repossessed apartment and refrigerator after defendant completed the work).

E & M Marine Corp. v. First Union Nat'l Bank, 783 So. 2d 311 (Fla. 3d DCA 2001), is analogous. The plaintiff salvaged a sunken boat and repaired its electrical system. *Id.* at 312. The boat's owner never paid for the repairs and defaulted on her secured loan. *Id.* After the lender repossessed the boat, the plaintiff sued it for unjust enrichment. *Id.* But there was no claim because the lender neither requested the plaintiff's services nor knowingly accepted the benefit of the services:

First Union did not request that E & M Marine repair the vessel. The engine repairs were made before [the owner] had defaulted on the loan and First Union had any right to seek possession. First Union had no knowledge of the vessel's whereabouts until more than three months after E & M Marine salvaged the vessel and made the electrical repairs. First Union only gained control of the vessel because it was forced to repossess it after [the owner] defaulted on the loan First Union did not knowingly and voluntarily accept the benefit of E & M Marine's repairs. Consequently, E & M cannot recover due to unjust enrichment.

Id. at 312-13 (citing *Coffee Pot*, 412 So. 2d at 884).

Here, GME alleges it discovered *la Trinité* in 2016 and conducted “prolonged and expensive research, survey, reporting, and identification of shipwrecked sites and artifacts and contents.” FAC ¶ 11. In May 2016, GME contacted France about the discovery, and France refused GME’s salvage services. ECF No. 53-4 at 11. The evidence shows—and GME counsel confirmed at the hearing—that all services for which GME seeks compensation came *before* France ever received any benefit. Thus, GME has pointed to no evidence that France knowingly accepted any benefit.⁸

France is Entitled to Summary Judgment on the Misappropriation of Trade Secrets Claim.

Next, GME claims France misappropriated GME’s trade secret in violation of the Florida Uniform Trade Secrets Act (FUTSA). FAC at 14-17. To succeed, GME “must show that ‘(1) it possessed a ‘trade secret’ and (2) the secret was misappropriated.’” *Fin. Info. Tech., LLC v. iControl Sys, USA, LLC*, 21 F.4th 1267, 1273 (11th Cir. 2021) (quoting *Yellowfin Yachts, Inc. v. Barker Boatworks, LLC*, 898 F.3d 1279, 1279 (11th Cir. 2018)). A “trade secret” is

information, including a formula pattern, compilation, program, device, method, technique, or process that:

- (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

⁸ Separately, GME has not shown “how it would be ‘inequitable’ for [France] to retain the benefit [it] received.” *Marrache*, 17 F.4th at 1102.

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Id. (quoting Fla. Stat. § 688.002(4)). And “[m]isappropriation occurs when a trade secret is acquired ‘by someone who knows or has reason to know that the secret was improperly obtained or who used improper means to obtain it.’” *Id.* (quoting *Yellowfin Yachts*, 898 F.3d at 1297).

GME claims the GPS coordinate information for the shipwreck sites was a trade secret. FAC ¶ 57. France argues GME made this information readily ascertainable by publicly filing Exhibit 1 (ECF No. 3-1) in this case and in *GME I*. Motion at 16-17. Exhibit 1 is a photographic map with the various shipwreck sites, and it has an arrow pointing to the location of *la Trinité*’s bronze cannon and monument. ECF No. 3-1. GME rejects that argument and insists the map only shows the general location of the shipwrecks and lacks the “precise pinpoint coordinates necessary to locate specific artifacts,” or the precise pinpoint coordinates for the shipwrecks, so it did not publicly disseminate its confidential information. Resp. at 30.

Regardless of whether the location was disclosed or not, GME fails to show that the GPS coordinate information qualifies as a trade secret because there is no evidence that GME took reasonable efforts to protect the information. After GME requested a recovery permit, the FDHR informed GME that it needed to provide the GPS coordinates for the shipwreck sites so the FDHR could assess the sites and

advance discussions with France. ECF No. 63 at 5. GME told the FDHR that it did not want the GPS coordinates to be made public, and the FDHR responded that the information was exempt from public records disclosure. *Id.* GME then turned over the coordinates. It did so without giving the FDHR any instructions about how to protect the information. Essentially, all GME did to protect its information was tell the FDHR that it didn't want the coordinates to be publicly divulged. That is not enough. *See Yellowfin Yachts*, 898 F.3d at 1300-01 (upholding district court's determination that reasonable efforts were not made because "Yellowfin's efforts to secure [its confidential information] rest[ed] upon a purported 'implicit understanding' between Yellowfin and Barker that the information was to be kept confidential," and "Yellowfin relinquished the information to Barker, who refused to sign a confidentiality agreement, with no instruction to him as to how to secure the information on his cellphone or personal laptop"). GME "effectively abandoned all oversight in the security of the" GPS coordinate information, and thus "no reasonable jury could find that [GME] employed reasonable efforts to secure the information."⁹ *Id.* at 1300-01. That means GME has not established that the GPS coordinates are a trade secret, and France is entitled to summary judgment.

⁹ GME says—without elaborating—that "France received GME's confidential information under a duty to maintain its confidentiality." Resp. at 29. It does not explain how this argument saves the claim from summary judgment.

France is Entitled to Summary Judgment on the Interference with Rights and Relations Claim.

GME alleges France tortiously interfered with GME's rights and relations with the Florida Department of State. Resp. at 31; *see also* FAC ¶ 72. According to GME, after it provided the shipwrecks' pinpoint coordinates to the FDHR, France joined forces with the FDOS to recover all the shipwreck sites. Resp. at 32. GME says it had to "act[] quickly to protect its interests," so GME arrested site #2 and brought an *in rem* admiralty claim, which prompted the FDOS to refuse to grant GME a recovery permit. *Id.* at 31-32. GME insists that "[h]ad France not interfered with GME and [Florida's] relationship, GME would not have needed to arrest the ship and there would be no reason for the State to reconsider the recovery permit." *Id.*

To prove France tortiously interfered with the business relationship between GME and the FDOS, GME must show "(1) the existence of a business relationship; (2) knowledge of the relationship on the part of the defendant; (3) an intentional and unjustified interference with the relationship by the defendant; and (4) damage to the plaintiff as a result of the breach of the relationship." *Duty Free Ams., Inc. v. Estee Lauder Cos.*, 797 F.3d 1248, 1279 (11th Cir. 2015) (quoting *Ethan Allen, Inc. v. Georgetown Manor, Inc.*, 647 So. 2d 812, 814 (Fla. 1994)).

GME's claim fails on the third element, that "the defendant acted without justification." *Id.* at 1280 (quoting *Sec. Title Guarantee Corp. of Balt. v. McDill*

Columbus Corp., 543 So. 2d 852, 855 (Fla. 1st DCA 1989)). Florida law “recognizes a ‘privilege of interference,’” which France invokes here. *Id.* (quoting *Wackenhut Corp. v. Maimone*, 389 So. 2d 656, 657-58 (Fla. 1st DCA 1980)). France explains that it invoked its ownership and sovereign immunity over *la Trinité*, as permitted by the privilege of interference. Motion at 29-30. Thus, France’s “interference to protect its economic interests is privileged unless [GME] alleges a ‘purely malicious motive’ divorced from any ‘legitimate competitive economic interest.’” *Duty Free*, 797 F.3d at 1280 (quoting *Heavener, Ogier Servs., Inc. v. R.W. Fla. Region, Inc.*, 418 So. 2d 1074, 1077 (Fla. 5th DCA 1982)). And GME has not met its burden to do so.

In fact, GME does not address France’s argument that the privilege of interference protects France’s actions. Instead, GME seems to suggest that France improperly interfered by laying claim to all of the shipwreck sites, instead of just *la Trinité*’s site. France’s Declaration of Intent stated its plans to work with FDOS to protect all of the shipwreck sites, and GME argues “France had no basis to justify its claim to the other shipwreck sites.” Resp. at 32-33. According to GME, “[n]othing in the reports of discoveries gave any indication those sites were of French origin.” *Id.* at 33. Yet GME provides no citation to these reports and points to no evidence showing how France acted with a “purely malicious motive” when it asserted its claim to these sites.

GME Had Sufficient Opportunity for Discovery.

Finally, GME asserts that summary judgment should not be granted before GME has had sufficient opportunity for discovery. ECF No. 69 at 34. But the parties had months for discovery, and the court’s earlier limitation on discovery allowed discovery on all issues raised in France’s summary-judgment motion. ECF No. 60. On these issues, the parties have collectively assembled a record of well over a thousand pages of historical documents and expert opinion. GME has not explained what additional discovery it would seek or why it did not have adequate time to seek it already. It has thus not made any showing consistent with Rule 56(d).

The court allowed a surreply and additional evidence, along with post-hearing briefing. In short, GME has had an adequate opportunity for discovery. *See Jones v. City of Columbus*, 120 F.3d 248, 253 (11th Cir. 1997).

CONCLUSION

The motion for summary judgment (ECF No. 59) is GRANTED. The clerk will enter judgment that says, “This case was resolved on a motion for summary judgment. Plaintiff’s claims are dismissed on the merits, and Plaintiff shall take nothing.” The clerk will then close the file.

SO ORDERED on September 29, 2023.

s/ Allen Winsor

United States District Judge