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602446-07
cc: G. Ietrocelli
Docket/Calendar
Records

November 12, 2008

BY MESSENGER SERVICE

Clerk of the Court
New York State Court of Appeals
20 Eagle Street
Albany, New York 12207

Re: *Golden Gate Yacht Club v.*
Société Nautique de Genève et al.
NY County Clerk's Index No.: 602446/07
Our File No.: 16102


Dear Sir or Madam:

Enclosed for filing please find an original and two copies of a Notice of Motion, Affirmation in Support, and proposed Amicus Brief in the above-entitled matter. In addition, enclosed please find a check for \$45.00 payable to New York State Court of Appeals for the filing fee.

Thank you for your courtesy and cooperation.

Very truly yours,

MEISELMAN, DENLEA, PACKMAN,
CARTON & EBERZ, P.C.


Christine M. Ford

CMF/bls
Encls.

cc: Maureen E. Mahoney
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Catherine M. Doll,
Jeremy Feigelson,
Debra...

COURT OF APPEALS
STATE OF NEW YORK

-----X

GOLDEN GATE YACHT CLUB,

Plaintiff-Appellant,

New York County Clerk's
Index No. 602446/07

-against-

SOCIÉTÉ NAUTIQUE DE GENÈVE,

Defendant-Respondent,

**NOTICE OF MOTION FOR
AMICUS CURIAE RELIEF**

-and-

CLUB NÁUTICO ESPAÑOL DE VELA,

Intervenor-Defendant.

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S I R S:

PLEASE TAKE NOTICE that, upon the annexed affirmation of CHRISTINE M. FORD, attorney for the City of Valencia, Spain ("Movant") and the proposed *amicus* brief submitted herewith, Movant will move the Court on December 8, 2008, at 9:30 am at the Courthouse located at 20 Eagle Street, Albany, New York 12207, or as soon thereafter as counsel may be heard for an order pursuant to Court of Appeals of the State of New York Rule of Practice 500.23 for permission to appear as *amicus curiae*. Movant seeks *amicus curiae* relief because: (1) the parties are not capable of a full and adequate presentation of Movant's interest in the litigation; (2) Movant is identifying arguments that might otherwise escape the Court's consideration; and (3) Movant believes its proposed *amicus* brief will be of assistance to the Court.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR § 2214, answering papers, if any, are required to be served on the undersigned at least eight (8) days before the return date of this motion.

Dated: White Plains, New York
November 12, 2008

Yours, etc.



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COURT OF APPEALS
STATE OF NEW YORK

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GOLDEN GATE YACHT CLUB,

Plaintiff-Appellant,

-against-

SOCIÉTÉ NAUTIQUE DE GENÈVE,

Defendant-Respondent,

-and-

CLUB NÁUTICO ESPAÑOL DE VELA,

Intervenor-Defendant.
-----X

New York County Clerk's
Index No. 602446/07

**AFFIRMATION IN SUPPORT
OF MOTION FOR *AMICUS
CURIAE* RELIEF**

CHRISTINE M. FORD, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under penalty of perjury:

1. I am an attorney with the law firm of Meiselman, Denlea, Packman, Carton & Eberz P.C., attorneys for the City of Valencia, Spain ("Valencia" or the "City"). I am fully familiar with the facts and circumstances described in my affirmation based upon my personal knowledge and a review of the files in the possession of my firm. I respectfully submit this affirmation in support of Valencia's motion for *amicus curiae* relief pursuant to Court of Appeals of the State of New York Rule of Practice 500.23. Valencia's proposed *amicus* brief is submitted herewith.

2. The City of Valencia, by virtue of having been the winning candidate over 65 others, was privileged to be named the host of the 32nd America's Cup held in the summer of 2007, after various regattas organized in its own waters during previous

summers (three of the nine previews—regattas known as “Acts”), with a historic success recognized as much by the participants as by visitors and international media representatives.

3. The economic effect of the 32nd America’s Cup and of the Acts, as well the City’s international image and the benefit for its residents, were of such magnitude that Valencia expressed its desire to repeat the experience of organizing a new edition of this sports competition for sailing. Thus, was it noted at the close of the 32nd America’s Cup, and given the event’s organizational, sports-related and audience success, Valencia was chosen to organize the 33rd America’s Cup in the year 2010, with the participation of the largest possible number of yacht clubs (teams), because they, with their hundreds of members and their families who take up residence in the City for two or three years, are what directly and indirectly generate economic growth and jobs, and as a result stimulate consumption.

4. Regrettably, the litigation is delaying the start of the competition in Valencia’s waters and delaying the teams’ setting up in the City, wherefore it would be desirable if it could be concluded as soon as possible. Also, if the pending legal decision made it possible to organize a 33rd America’s Cup with the 21 yacht clubs that have announced their participation, Valencia would be back on track to organizing a successful event, which would not only have an impact on Valencia, but all of Spain and the nautical world in general. Therefore, Valencia has an interest in the outcome of the appeal.

5. The sports-related and social—and especially economic—interest that this event holds for the City is now added to the especially difficult international economic

climate that we are experiencing, which also affects Spain and Valencia. Therefore, the possibility of holding the 33rd America's Cup in our waters, with all of its potential for wealth and jobs, on the upcoming dates in the years 2009 (preview regattas) and 2010 (final), with the 21 teams that have expressed their interest in registering, would constitute for Valencia and its residents a unique and exceptional opportunity to energize the economy and help mitigate the serious effects of the tremendous crisis that we are experiencing.

6. As calculated by independent experts, by the Government of Spain and by the Chambers of Commerce of Industry and Shipping, the 32nd America's Cup in the year 2007 and its preliminary Acts in the years 2005 and 2006, held with 12 teams participating, had an economic impact of more than 6 billion euros, of which 2 billion euros were spent directly on investments in infrastructure, promotion, participants and tourism. In addition, the 32nd America's Cup created more than 60,000 jobs.

7. With regard to its impact on tourism, the 32nd America's Cup generated some 192,000,000 euros in profit and 4,160 jobs. The Port America's Cup received 5,700,000 visitors, of which 2,800,000 came solely in 2007. As for its effect on the media, it should be emphasized that from 2004 to 2007, there were 4,200,000,000 television viewers watching 128 television channels in more than 150 countries. More than 100,000 newspaper articles were published, and more than 6,700 journalists from national and international media outlets were accredited.

8. The 33rd America's Cup assumes—this time with 21 teams instead of 12, with an average of 100 members each—that 2,100 families will take up residence in Valencia, with the resulting expenses for housing, school, food, clothing and leisure

activities, and that for two (or three) years, the direct and indirect creation of thousands of jobs; new investments in infrastructure both in the sports port as well as in the City; the impact of the teams' new technologies on Valencian and Spanish industry; the economic activity of Valencia's tourism and services sector; the media's visual presentation of Valencia's tourist offerings in all of the countries involved; and the attraction of a large number of visitors from the five continents with a tremendous repercussion on overnight stays in hotels and on trade.

9. From a sports point of view, Valencia would once again offer the best setting with the best facilities for the teams, as already occurred in the year 2007; a level of grass-roots involvement not seen prior to the 32nd America's Cup; an incentive among the youngest people toward enthusiasm for sailing; and the strengthening of Valencia as a city for sailing and nautical sports with the best sports port in the Mediterranean Sea.

10. A speedy judicial decision would prevent the impetus achieved with the 32nd America's Cup from being lost forever. The teams that are still in Valencia and those that are prepared to set up in the City in order to participate in the 33rd America's Cup want to compete in the water as soon as possible, which would benefit the City.

11. Given Valencia's unique position, the City is singularly capable of presenting its interests in this litigation.

12. Valencia's proposed amicus brief is limited to issues affecting the City's interests and identifies arguments that might otherwise escape the Court's attention.

13. Valencia believes that consideration of its arguments will be of assistance to the Court.

WHEREFORE, it is respectfully requested that the City of Valencia's Motion for Leave to File a Brief as *Amicus Curiae* in the above referenced matter, be granted.

Dated: White Plains, New York
November 12, 2008


CHRISTINE M. FORD

New York County Clerk's Index No. 602446/07

New York State
COURT OF APPEALS

GOLDEN GATE YACHT CLUB,

Plaintiff-Appellant,

against

SOCIETE NAUTIQUE DE GENEVE,

Defendant-Respondent,

against

CLUB NÁUTICO ESPAÑOL DE VELA,

Intervenor-Defendant.

BRIEF OF *AMICUS CURIAE* CITY OF VALENCIA, SPAIN

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Attorneys for Amicus Curiae City of Valencia

INTEREST OF AMICUS CURIAE

The City of Valencia, Spain, by virtue of having been the winning candidate over 65 others, was privileged to be named the host of the 32nd America's Cup held in the summer of 2007, after various regattas organized in its own waters during previous summers (three of the nine previews—regattas known as "Acts"), with a historic success recognized as much by the participants as by visitors and international media representatives.

The economic effect of the 32nd America's Cup and of the Acts, as well the City's international image and the benefit for its residents, were of such magnitude that Valencia expressed its desire to repeat the experience of organizing a new edition of this sports competition for sailing.

Thus, was it noted at the close of the 32nd America's Cup, and given the event's organizational, sports-related and audience success, Valencia was chosen to organize the 33rd America's Cup in the year 2010, with the participation of the largest possible number of yacht clubs (teams), because they, with their hundreds of members and their families who take up residence in the City for two or three years, are what directly and indirectly generate economic growth and jobs, and as a result stimulate consumption.

The sports-related and social—and especially economic—interest that this event holds for the City is now added to the especially difficult international economic climate, which also affects Spain and Valencia. Therefore, the possibility of holding the 33rd America's Cup in our waters, with all of its potential for wealth and jobs, on the upcoming dates in the years 2009 (preview regattas) and 2010 (final), with the 21 teams

that have expressed their interest in registering, would constitute for Valencia and its residents a unique and exceptional opportunity to energize the economy and help mitigate the serious effects of the tremendous crisis that we are experiencing.

If the Court of Appeals would be willing to consider these arguments and with that permit the 33rd America's Cup in 2010 to be organized in multi-challenger format, Valencia would be committed and proud to organize an event of great sports-related and financial success, which would not only benefit the very City and its residents, but also all of Spain and the sailing and nautical world in general.

Therefore, Valencia has standing to appear before the Court of Appeals and present its arguments.

PRELIMINARY STATEMENT

With the utmost respect for the decisions of the Court of Appeals, Valencia expresses its interest in being able to organize the 33rd America's Cup in Valencia in the shortest time possible and with the participation of the largest number of teams possible, so that, together with their families, they take up residence in the City, begin training, attract friends and visitors from their respective countries, once again presenting the name of Valencia to the world as a tourist destination and thereby helping to energize the local economy.

STATEMENT OF FACTS

By holding the 33rd America's Cup in accordance with the multi-challenger model of the 32nd America's Cup, it is likely that twenty-one yacht clubs will participate in it. The racing teams interested in participating in the 33rd America's Cup include: Alinghi; Desafio Español; Shosholoza; Emirates Team New Zealand; Team Origin; Team Germany; Green Comm Challenge; Ayre; Victory Challenge; Argo Challenge; Team French Spirit; Carbon Challenge; Mascalzone Latino; Luna Rossa; Joe Fly; Italia Challenge; Decision Challenge; Real Club Náutico Barcelona; K-Challenge; Club Nautique Russe; and China Team.

The financial impact that these teams have on Valencia's economy is considerable, given that families, suppliers, journalists, the public attending the events, sponsors, etc., may reside, consume and invest in Valencia, and this entails a significant source of funds for the City, its businesses and its industry.

If one considers the fact that those teams' average budgets are approximately 100 or 150 million Euros per team (depending on the team's size), and that most of this is invested in Valencia and its region, the amount of revenue for the City of Valencia is considerable and, consequently, the more teams that participate, the better it is for the local economy.

To accommodate the 32nd America's Cup, the investments in sports port and City infrastructure were quite substantial. Valencia, which was selected to host the first America's Cup ever to be held in Europe, was praised for its excellent sailing conditions, the creation of a Port exclusively for the event (the America's Cup Port), its great marine tradition, and enormous organizational capacity. In exchange, Valencia

has benefited from international publicity and the revenues and investments in the economy in general and in the City's tourism industry in particular. It was no surprise, then, that it has been chosen again as the host of the 33rd America's Cup.

Finally, the City of Valencia wishes to express to the Court of Appeals its satisfaction regarding the fact that the Club Náutico Español de Vela has selected Valencia as the base of operations from which it will organize sailing events of an international nature.

ARGUMENT

Given Valencia's interest in organizing the 33rd America's Cup in its waters with the greatest number of teams and during a prolonged period of nautical activity, we are presenting data on the economic impact of the 32nd America's Cup as a point of departure in order to analyze, based on them, what can be carried over to the organization of the 33rd edition. Without a doubt, these data support the advisability of repeating the event in accordance with the model of the 32nd America's Cup.

As calculated by independent experts, by the Government of Spain and by the Chambers of Commerce of Industry and Shipping, the 32nd America's Cup in the year 2007 and its preliminary Acts in the years 2005 and 2006, held with 12 teams participating, had an economic impact of more than 6 billion euros, of which 2 billion euros were spent directly on investments in infrastructure, promotion, participants and tourism. In addition, the 32nd America's Cup created more than 60,000 jobs.

With regard to its impact on tourism, the 32nd America's Cup generated some 192,000,000 euros in profit and 4,160 jobs. The Port America's Cup received 5,700,000 visitors, of which 2,800,000 came solely in 2007. As for its effect on the

media, it should be emphasized that from 2004 to 2007, there were 4,200,000,000 television viewers watching 128 television channels in more than 150 countries. More than 100,000 newspaper articles were published, and more than 6,700 journalists from national and international media outlets were accredited.

The 33rd America's Cup assumes—this time with 21 teams instead of 12, with an average of 100 members each—that 2,100 families will take up residence in Valencia, with the resulting expenses for housing, school, food, clothing and leisure activities, and that for two (or three) years, the direct and indirect creation of thousands of jobs; new investments in infrastructure both in the sports port as well as in the City; the impact of the teams' new technologies on Valencian and Spanish industry; the economic activity of Valencia's tourism and services sector; the media's visual presentation of Valencia's tourist offerings in all of the countries involved; and the attraction of a large number of visitors from the five continents with a tremendous repercussion on overnight stays in hotels and on trade.

From a sports point of view, Valencia would once again offer the best setting with the best facilities for the teams, as already occurred in the year 2007; a level of grass-roots involvement not seen prior to the 32nd America's Cup; an incentive among the youngest people toward enthusiasm for sailing; and the strengthening of Valencia as a city for sailing and nautical sports with the best sports port in the Mediterranean Sea.

As a result, Valencia has already initiated conversations and has prior commitments with the organizing entity in order not to lose and to take advantage of this

magnificent opportunity, and thus to be the host and ideal venue for the 33rd America's Cup with the maximum number of participants possible.

The decision of the Court of Appeals in this regard that is respectfully set forth and that is of interest to Valencia would permit continuation of the enormous momentum achieved with the 32nd America's Cup.

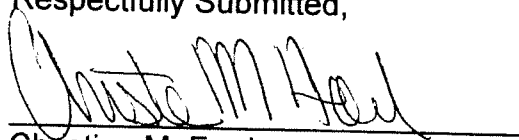
CONCLUSION

For all of the foregoing reasons, *Amicus* respectfully requests that the Court of Appeals, as it considers this case, take into account Valencia's interests, for which the most desirable thing is that the 33rd America's Cup be held in the City with the greatest number of participants possible.

Dated: White Plains, New York
November 12, 2008

Respectfully Submitted,

By:



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