

PLEASE TAKE FURTHER NOTICE that opposition to this Motion,
if any, shall be served by January 12, 2009.

Dated: January 7, 2009

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NEW YORK COURT OF APPEALS

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GOLDEN GATE YACHT CLUB,

Plaintiff-Appellant,

v.

SOCIÉTÉ NAUTIQUE DE GENÈVE,

Defendant-Respondent,

and

CLUB NÁUTICO ESPAÑOL DE VELA,

Intervenor-Defendant.
-----X

New York County
Index No. 602446/07

**AFFIRMATION IN SUPPORT OF THE MOTION
BY PROPOSED *AMICI CURIAE* ROYAL THAMES
YACHT CLUB LIMITED AND TEAMORIGIN LLP**

T. BARRY KINGHAM, an attorney admitted to practice law in the State of New York, hereby affirms the following under penalties of perjury:

1. I am a member of the law firm Curtis, Mallet-Prevost, Colt & Mosle LLP, counsel for proposed *amici curiae* Royal Thames Yacht Club Limited and TEAMORIGIN LLP (the “Proposed *Amici*”). As such, I am fully familiar with the facts set forth herein.

2. I submit this affirmation in support of the motion by the Proposed *Amici* to submit a brief in support of Respondent Société Nautique de Genève (“SNG”) and urging affirmance of the decision below.

3. Under Sections 500.23(a)(1) and 500.21(b) of the Rules of this Court, the motion of the Proposed *Amici* should have been served and filed to allow eight days’ notice before the return date, which under these Sections, was January 4, 2009. This motion will be served and filed on January 7, 2009.

4. The motion is untimely because as of December 30, 2008, no *amicus* had appeared in support of Appellant Golden Gate Yacht Club (“GGYC”), and the Proposed *Amici* were satisfied to allow the parties to address the significant issues before the Court. However, on December 30 and 31, respectively, proposed *amici curiae* New York Yacht Club (“NYYC”) and San Diego Yacht Club (“SDYC”) submitted motions to file briefs in support of Appellant. Upon reviewing those briefs, the Proposed *Amici* felt compelled to express their views to this Court. Given the intervening holidays, it was not possible to prepare these papers before January 7, 2009 in a responsible manner. Thus, the Proposed *Amici* respectfully request that the Court consider their motion and accept their brief.

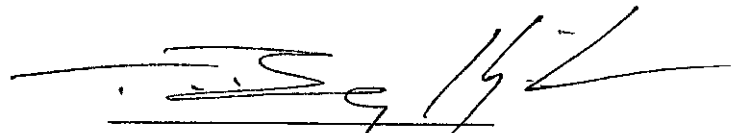
5. The following facts post-date creation of the appellate record. They are stated on information and belief, based upon my investigation of these matters.

6. Appellant GGYC has been invited to attend meetings to discuss the development of the Protocol, and has declined to attend.

7. Proposed *amicus* NYYC is not entered in the 33rd America's Cup and accordingly has not been involved in any meetings, discussions or negotiations among Respondent SNG, Club Náutico Español de Vela ("CNEV") and the 33rd America's Cup challengers.

8. In November 2008, CNEV hosted a regatta in Valencia, Spain. TEAMORIGIN competed in the regatta, along with three other challengers for the 33rd America's Cup. The regatta was professionally organized and well-attended. CNEV's racing team, Desafio Español, is indisputably a well-established and successful America's Cup competitor.

Dated: January 7, 2009
New York, New York



T. Barry Kingham

