

SIMPSON THACHER & BARTLETT LLP

425 LEXINGTON AVENUE  
NEW YORK, N.Y. 10017-3954  
(212) 455-2000

FACSIMILE (212) 455-2502

DIRECT DIAL NUMBER  
212-455-2655

E-MAIL ADDRESS  
bostrager@stblaw.com

VIA FACSIMILE  
AND BY HAND

November 5, 2009

Re: *Golden Gate Yacht Club v. Société Nautique de Genève, et al.*  
(New York County Clerk's Index No. 602446/07)

The Honorable Shirley W. Kornreich  
The Supreme Court of the State of New York  
County of New York  
Part 54  
60 Centre Street, Room 418  
New York, NY 10007

Dear Justice Kornreich:

Further to the conference call your Honor convened on November 2, we write to update your Honor as follows:

1. SNG's overarching objective is, as it has always been, to have the 33<sup>rd</sup> America's Cup decided on the water rather than in the Courts of the State of New York. Towards that end, SNG remains committed to proceeding with the 33<sup>rd</sup> America's Cup in February 2010. We seek to conduct this event at a world-class venue that will be best for participants and spectators and enhance the quality of the world's premier sailing event.

2. Under the Deed of Gift, and longstanding practice, SNG, as defender, has the right to select the venue. Following this Court's October 30, 2009 Order, holding that SNG could not select a Northern Hemisphere venue, other than Valencia, for a race in February 2010, SNG has identified a potential Southern Hemisphere venue located on the East Coast of Australia. The enclosed memorandum outlines SNG's right to select a Southern Hemisphere venue.

3. If the Court recognizes SNG's right, consistent with the Deed of Gift to select a Southern Hemisphere venue, and GGYC agrees to forego further legal proceedings

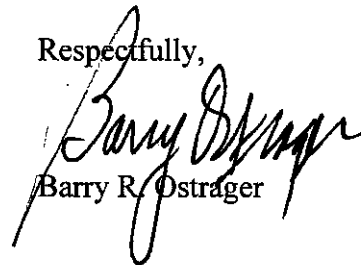
relating to venue issues, SNG would select a Southern Hemisphere venue for the Cup within ten business days and hopefully there will be no further litigation relating to the 33rd America's Cup.

4. Subject to finalizing agreement to an appropriate consent order, everything is in place for the expert witness group to resolve all 5 technical issues outlined by the Court this weekend. A session before the expert witness group has tentatively been scheduled for this Saturday. And, the expert witness group has preliminarily indicated that they expect to be in a position to issue their recommendations on the 5 specified questions to your Honor no later than next Monday, November 9.

5. Finally, please be advised that SNG filed an appeal yesterday of this Court's orders on the Northern Hemisphere and rudder issues. The Appellate Division agreed to hear such appeal on an extremely expedited basis, with all briefing to be completed next week and with oral argument expected to take place before Thanksgiving.

I look forward to addressing any questions or concerns your Honor may have at tomorrow's hearing.

Respectfully,



Barry R. Ostrager

Encl.

cc: David Boies, Esq. (by hand)  
James V. Kearney, Esq. (by hand)  
Jeffrey A. Rosenthal, Esq. (by hand)  
Peter A. Cross, Esq. (by hand)