

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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GOLDEN GATE YACHT CLUB,

Plaintiff,

v.

SOCIÉTÉ NAUTIQUE DE GENÈVE,

Defendant,

v.

CLUB NÁUTICO ESPAÑOL DE VELA,

Intervenor-Defendant.
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: INDEX NO. 602446/07

: IAS Part 54

: Hon. Shirley Werner Kornreich

:
: **AFFIDAVIT OF**
: **TOM SCHNACKENBERG**

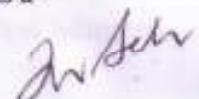
THOMAS WILLAM SCHNACKENBERG being duly sworn, deposes and says:

1. I am a citizen of New Zealand over the age of 18. I submit this Affidavit in support of Soci t  Nautique de Gen ve's ("SNG") Opposition to Golden Gate Yacht Club's ("GGYC") Motion to Enforce the April 7, 2009 Order and Judgment, Renew Its Sailing Rules Motion, and to Permit Disclosure of SNG's 33rd America's Cup Agreement (the "Motion").

2. I am currently employed by Alinghi, the representative of SNG in the 33rd America's Cup, in a design and analysis capacity.

3. I have been involved in the Americas Cup since 1977, initially as a sail designer and in software development. Over the years I have had a variety of design, sailing and management roles. Since my original involvement with the America's Cup, I have participated in campaigns in every Cup cycle, including the Deed of Gift Match in 1988. I was design coordinator for the winning Team New Zealand in two Campaigns.

4. From 2007 until the beginning of this year, I participated as chairman in two cooperative efforts to produce a new version of an Americas' Cup Class Rule, and as a



consequence gained considerable knowledge relating to current understanding about the parameters which are significant for boat performance.

Rudders are part of a yacht and have to be counted for measurement purpose

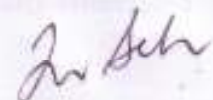
5. A yacht or a vessel is made of a series of elements that are needed to sail the boat. The rudders are obviously essential parts of yachts, at the same level as the wheels for a car. When referring to dimensions for a yacht or a vessel, the Deed of Gift and the Challenge Certificate include implicitly the rudders in these dimensions.

6. In all Cup rules since the J Class Rule used in the 1920's the so-called "rated length" has been one of the key determinates of hull speed potential and the rating of the yacht. In each case, there have been detailed requirements to specify how length was to be determined.

7. In both the International 12m Rule, and the America's Cup Class (ACC) Rule, length is not measured at the load waterline, but instead, at a specified distance above, and rudders and other appendages are required to lie within this length, as it has been recognized for some time that the rudder volume could effectively extend this length.

8. In developing the new versions of the ACC Rule, we specified maximum lengths overall rather than rated lengths. We discussed rudders and other appendages extensively and decided that these would not be permitted beyond the extent of the hulls, given their potential to extend the effective sailing length. In the Volvo 70 Class as well, rudders are required to be forward of the aft end of the hull.

9. In developing the two new versions of the ACC Rule, the AC90 and AC33 rules SNG working with at least 15 potential Americas Cup teams specified maximum lengths overall rather than rated lengths. The teams discussed rudders and other appendages extensively and decided that these would not be permitted beyond the extent of the hulls, given their potential to extend the effective sailing length. . *Id.*



10. There are not many class or rating rules which specify LWL as a measurement. However one which does is the international rule for model yachts and in this, rudders are included in the measurement of LWL, both the portion on the waterline and any significant extension further aft which may lie underwater.

11. The NOR for the 1988 America's Cup Match specified that LWL would be measured from the foremost to aftermost intersection of the yacht with its waterplane. SNG used this template for its recently issued measurement instructions as it was used successfully in 1988 and fits with all current thinking on the subject.

12. Halsey Herreshoff in his affidavit states that the waterline length of the famous catamaran "Amaryllis" was always quoted not including the rudders. That was their choice, but a glance at the photo of Amaryllis II sailing, displayed in the Herreshoff Museum, shows from the wave pattern at the stern that LWL always should have included the rudders.



- photo from the Herreshoff Museum
AMARYLLIS UNDER SAIL

J. F. Herreshoff

13. If rudders were to be discarded for measurement, all kinds of other appendages would have to be discarded as well, which would make the Deed of Gift limits for maximum LWL meaningless.

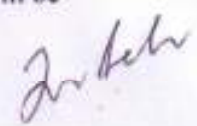
14. When a trimaran sits upright, only the centre hull is substantially in the water, and the two "amas" are effectively suspended by the cross beams with only rear rudders and a part of the "amas" touching the water. In such a situation the rear rudders define the extreme rear point for measurement of LWL. When sailing, the yacht is always leaning to one side or the other so the length of the amas is what determines the speed potential of the yacht. Therefore, it is normal and fair to count whatever part of the yacht that is touching the water in measurement conditions in the LWL, including the rudders.

USA has to match exactly the dimension of its certificate

15. Both the Beam and the LWL are critical dimensions to define the speed potential of a multi-hull. Since SNG did not receive a Custom House Registry from GGYC timely, as provided for in the Deed of Gift, it had to rely exclusively on the dimensions of the Vessel Certificate attached to the Challenge in designing its defence yacht.

16. SNG would have designed a different boat if it had known that GGYC vessel, called USA, was not 90 feet beam and 90 feet LWL.

17. If the arguments of GGYC are to be accepted, every single-masted vessel that ever raced for the Cup could be fairly described by GGYC's Certificate of Vessel, insofar as the length and beam are concerned. To allow GGYC's position to stand would defeat the express intent of the Donor to give the defender notice of the "capacity" or "power" of the challenging yacht, leaving all future defenders in the hopeless position of having to build a defending yacht against an infinitely variable challenging vessel, about which all that will be known is that it will be something less than 90 feet long by 90 feet wide.



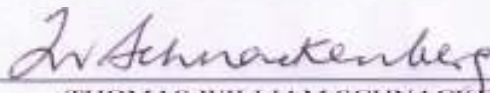
18. At the very least it is necessary that as a first requirement, the challenge vessel conforms to the beam measurements certified in the Certificate of Vessel, and as a second requirement that the definition of length at load waterline, as used in the 1988 NOR, be retained and respected.

Water Ballast

19. In multi-hull races, it is common not to include movable water ballast in the boat measurement process. For instance, the ACVL Measurement Procedures for 2009 (which sets forth the measurement process for SNG-sponsored races) do *not* include water ballast in measurement of load waterline.

20. And in SNG's multi-hull regatta held on Lake Geneva, water ballast is not included in the measurement process. The reason for this is that there is no one fixed or normal position or quantity for water ballast on board a multi-hull yacht.

Dated: 18 September 2009
Lausanne, Switzerland


THOMAS WILLIAM SCHNACKENBERG