

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

Golden Gate Yacht Club,

Plaintiff,

v.

Societe Nautique de Geneve,

Defendant,

Club Nautico Espanol de Vela,

Intervenor-Defendant.

Index No. 602446/07

**AFFIDAVIT OF
KENNETH McALPINE**

KENNETH McALPINE, hereby deposes and says:

1. I am over 18 years of age and am a citizen of Australia. Since 1988 I have been the Chairman of the Measurement Committee for each of the America's Cup competitions since 1988, including the most recent 32nd America's Cup. As such, I was responsible for the process and the administration of the process used for the measurement of all America's Cup competing yachts. The Measurement Committee is also responsible for resolving any disputes arising out of the measurement process. In most instances these disputes are resolved by discussion with the relevant competitor.

2. By profession, I am a Naval Architect and Chartered Professional Engineer. I am a Fellow of the Institution of Engineers of Australia, an associate member of the Society of Naval Architects and Marine Engineers in the United States, and an associate member of the Royal Institute of Naval Architects in the United Kingdom. I have been an International Sailing Federation (ISAF) International Measurer since 1986.

3. I have been asked to provide this affidavit to inform the court about the measurement process.

4. The standard measurement procedures of the International Sailing Federation (“ISAF”) are contained in ISAF’s Equipment Rules of Sailing for 2009-2012. These exclude the vessel’s rudder in the measurement of length. In measuring the competing yachts in the 1988 America’s Cup, the last default match under the Deed of Gift, between Mercury Bay and the San Diego Yacht Club, the measurement committee established the location of the load water line on the hull when the competing yacht was floating. If either yacht had had a rudder extending beyond the water line of the hull, it would not have been included in the measurement.

5. As a measurer and a naval architect I would interpret the term “load water-line” means the water line when the vessel is in the load condition; that is, the vessel has the maximum weight that it will carry during the race or voyage. The load condition contains everything that is anticipated to be carried during the race. For example, during the measurement process for the 1988 America’s Cup, the competing vessels were measured in load condition including all of the ballast, crew and equipment that would be used during the race. Unless specifically written out by the Organizing Authority, the ISAF Racing Rules do not permit moveable ballast. As this rule was not written out by San Diego Yacht Club for the Match in 1988, moveable ballast was not permitted. Had movable ballast been permitted on the 1988 competing vessels, the measurement committee would have required it be on board for measurement.

6. It is entirely possible for a measurement committee to develop an appropriate process to measure the load water-line in a vessel containing movable ballast. The measurement committee would exercise its expert judgment and common sense in light of its experience to

determine the placement of movable ballast, just as the measurement committee would use judgment and expertise to properly distribute, for the purposes of measurement, the crew and other equipment that necessarily moves around during a race.

7. I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read "Kenneth McAlpine". The signature is written in a cursive style with a large initial "K".

Kenneth McAlpine