

**NEW YORK STATE
COURT OF APPEALS**

Preliminary Appeal Statement

Pursuant to section 500.9 of the Rules of the Court of Appeals

1. CAPTION OF CASE (as the parties should be denominated in the Court of Appeals):

<u>STATE OF NEW YORK</u>	<u>COURT OF APPEALS</u>
GOLDEN GATE YACHT CLUB,	Plaintiff-Appellant,
-against-	
SOCIETE NAUTIQUE DE GENEVE,	Defendant-Respondent,
-and-	
CLUB NAUTICO ESPANOL DE VELA,	Intervenor-Defendant.

2. Name of court or tribunal where case originated, including county, if applicable:
Supreme Court of the State of New York, County of New York

3. Civil index number, criminal indictment number or other number assigned to the matter in the court or tribunal of original instance: 602446/07

4. Docket number assigned to the matter at the Appellate Division or other intermediate appellate court: 602446/07

5. Jurisdictional basis for this appeal:

- Leave to appeal granted by the Court of Appeals or a Judge of the Court of Appeals
 - Leave to appeal granted by the Appellate Division or a Justice of the Appellate Division
 - CPLR 5601(a): dissents on the law at the Appellate Division
 - CPLR 5601(b)(1): constitutional ground (Appellate Division order)
 - CPLR 5601(b)(2): constitutional ground (judgment of court of original instance)
 - CPLR 5601(c): Appellate Division order granting a new trial or hearing, upon stipulation for judgment absolute
 - CPLR 5601(d): from a final judgment, order, determination or award, seeking review of a prior nonfinal Appellate Division order
 - Other (specify) _____
-

6. How this appeal was taken to the Court of Appeals (choose one) (see CPLR 5515[1]):

NOTICE OF APPEAL

Date filed: August 1, 2008

Clerk's office where filed: New York County

ORDER GRANTING LEAVE TO APPEAL (civil case):

Court that issued order: _____

Date of order: _____

CERTIFICATE GRANTING LEAVE TO APPEAL (criminal case):

Justice or Judge who issued order: _____

Court: _____

Date of order: _____

7. Demonstration of timeliness of appeal in civil case (CPLR 5513, 5514):

Was appellant served by its adversary with a copy of the order, judgment or determination appealed from and notice of its entry? yes no

If yes, date on which appellant was served (if known, or discernable from the papers served): _____

If yes, method by which appellant was served: personal delivery
 regular mail
 overnight courier
 other (describe _____)

Did the Appellate Division deny a motion for leave to appeal to this Court in this case? yes no

If yes, fill in the following information:

- a. date appellant served the motion for leave to appeal made at the Appellate Division: _____
- b. date on which appellant was served with the Appellate Division order denying such motion with notice of the order's entry: _____, and
- c. method by which appellant was served with the Appellate Division order denying such motion: _____ personal service
_____ regular mail
_____ overnight courier
_____ other (describe _____)

8. Party Information:

Instructions: Fill in the name of each party to the action or proceeding, one name per line. Indicate the status of the party in the court of original instance and the party's status in this Court, if any. Examples of a party's original status include: plaintiff, defendant, petitioner, respondent, claimant, third-party plaintiff, third-party defendant, intervenor. Examples of a party's Court of Appeals status include: appellant, respondent, appellant-respondent, respondent-appellant, intervenor-appellant.

No.	Party Name	Original Status	Court of Appeals Status
1	Golden Gate Yacht Club	Plaintiff	Appellant
2	Societe Nautique de Geneve	Defendant	Respondent
3	Club Nautico Espanol de Vela	Intervenor	Other
4			
5			
6			
7			
8			
9			
10			

9. Attorney information:

Instructions: For each party listed above, fill in the name of the law firm and responsible attorney, if the party is represented. Where a litigant is self-represented, fill in that party's data in section 10 below.

For Party No. 1 above:

Law Firm Name: Latham & Watkins LLP

Responsible Attorney: James V. Kearney

Street Address: 885 Third Avenue

City: New York State: NY Zip: 10022

Telephone No: 212-906-1200 Ext. 1368 Fax: (212) 751-4864

If appearing Pro Hac Vice, has attorney satisfied requirements of section 500.4 of the Rules of the Court of Appeals? yes no

For Party No. 2 above:

Law Firm Name: Simpson Thacher & Bartlett LLP

Responsible Attorney: Barry R. Ostrager

Street Address: 425 Lexington Avenue

City: New York State: NY Zip: 10017

Telephone No: (212) 455-2000 Ext. 2655 Fax: (212) 455-2502

If appearing Pro Hac Vice, has attorney satisfied requirements of section 500.4 of the Rules of the Court of Appeals? yes no

For Party No. 3 above:

Law Firm Name: Debevoise & Plimpton LLP

Responsible Attorney: David W. Rivkin

Street Address: 919 Third Avenue

City: New York State: NY Zip: 10022

Telephone No: (212) 909-6000 Ext. 6671 Fax: (212) 521-7671

If appearing Pro Hac Vice, has attorney satisfied requirements of section 500.4 of the Rules of the Court of Appeals? yes no

For Party No. __ above:

Law Firm Name: _____

Responsible Attorney: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone No: _____ Ext. _____ Fax: _____

If appearing Pro Hac Vice, has attorney satisfied requirements of section 500.4 of the Rules of the Court of Appeals? yes no

For Party No. __ above:

Law Firm Name: _____

Responsible Attorney: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone No: _____ Ext. _____ Fax: _____

If appearing Pro Hac Vice, has attorney satisfied requirements of section 500.4 of the Rules of the Court of Appeals? yes no

(Use additional sheets if necessary)

10. Self-Represented Litigant information:

For Party No. __ above:

Party's Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone No.: _____ Ext. _____ Fax: _____

For Party No. __ above:

Party's Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone No.: _____ Ext. _____ Fax: _____

11. Related motions and applications:

Does any party to the appeal have any motions or applications related to this appeal pending in the Court of Appeals? yes no

If yes, specify:

- a. the party who filed the motion or application: _____
- b. the return date of the motion: _____
- c. the relief sought: _____

Does any party to the appeal have any motions or applications in this case currently pending in the court from which the appeal is taken? yes no

If yes, specify:

- a. the party who filed the motion or application: _____
- b. the return date of the motion: _____
- c. the relief sought: _____

Are there any other pending motions or ongoing proceedings in this case? If yes, please describe briefly the nature and the status of such motions or proceedings: _____

No

12. Set forth, in point-heading form, issues proposed to be raised on appeal (this is a nonbinding designation, for preliminary issue identification purposes only):

Whether Club Nautico Espanol de Vela ("CNEV"), a "club" in name only, meets the requirements prescribed in the America's Cup Deed of Gift to challenge for the America's Cup, where the Deed of Gift requires, among other things, that the challenger be a yacht club and have an annual regatta, and where, at the time of its challenge, CNEV had never held an annual regatta, had no vessels, had no members apart from the five incorporators, and had no telephone number or website of its own. The Appellate Division answered in the affirmative, with Justices Eugene L. Nardelli and David B. Saxe dissenting.

(use additional sheet, if necessary)

13. Does appellant request that this appeal be considered for resolution pursuant to section 500.11 of the Rules of the Court of Appeals (Alternative Procedure for Selected Appeals)?

_____yes no

If yes, set forth a concise statement why appellant believes that consideration pursuant to section 500.11 is appropriate (see section 500.11[b]): _____

14. Notice to the Attorney General.

Is any party to the appeal asserting that a statute is unconstitutional? ___yes no

If yes, has appellant met the requirement of notice to the Attorney General in section 500.9(b) of the Rules of the Court of Appeals? ___yes ___no

15. **ITEMS REQUIRED TO BE ATTACHED TO THIS STATEMENT:**

A. A copy of the filed notice of appeal, a copy of the order granting leave to appeal (civil case), or a copy of the certificate granting leave to appeal (noncapital criminal case), whichever is applicable;

B. The order, judgment or determination appealed from to this Court;

C. Any order, judgment or determination which is the subject of the order appealed from, or which is otherwise brought up for review;

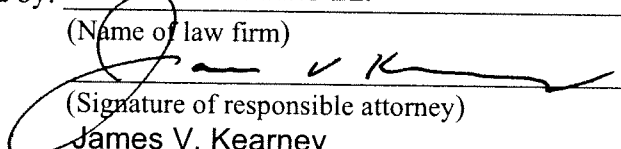
D. All decisions or opinions relating to the orders set forth in subsections B and C above; and

E. If required, a copy of the notice sent to the Attorney General pursuant to section 500.9(b) of the Rules of the Court of Appeals.

Date: August 1, 2008

Submitted by: Latham & Watkins LLP

(Name of law firm)


(Signature of responsible attorney)

James V. Kearney

(Typed name of responsible attorney)

Attorneys for appellant Golden Gate Yacht Club

(Name of party)

-or-

Date: _____

Submitted by _____, pro se

(Signature of appellant)

(Typed/printed name of self-represented appellant)