



GOLDEN GATE YACHT CLUB
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**HIGHLIGHTS OF
REALE YACHT CLUB CANOTTIERI SAVOIA AND MASCALZONE LATINO'S BRIEF
TO THE NEW YORK STATE COURT OF APPEALS**

October 16, 2008 – Today, Reale Yacht Club Canottieri Savoia (RYCCS) of Naples, Italy and the Mascalzone Latino yachting syndicate submitted a “*Friends of the Court*” (*amici curiae*) brief to the New York State Court of Appeals in support of the suit brought by the Golden Gate Yacht Club (GGYC) against Société Nautique de Genève (SNG) and Club Náutico Español de Vela (CNEV) over the future of the America’s Cup.

RYCCS, which was founded in 1893, and Mascalzone Latino are asking the court to reverse a lower court ruling that CNEV is the legitimate “Challenger of Record” under the 19th Century “Deed of Gift” that governs the oldest trophy in international sport.

Mascalzone Latino was one of seven America’s Cup yachting syndicates which wrote a protest letter in July 2007 calling the Protocol, or rules, drawn up for the 33rd America’s Cup by SNG “the worst” in the history of the America’s Cup.

The following are verbatim excerpts from today’s 26-page submission:

What is at stake (Pages 1, 2 and 4)

“If ... the manipulations of defendant-respondent Société Nautique De Genève (‘SNG’) and its accomplice ... Club Nautico Espanol De Vela (‘CNEV’), are allowed to stand, the America’s Cup will be reduced to a ‘*Defender’s Cup*,’ that is neither a challenge nor necessarily competitive. Instead, the America’s Cup will become entirely controlled by the Defender.”

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“If the charade that SNG and CNEV perpetrated is held to be capable of creating a proper Challenger of Record, the future of the America’s Cup will be one of all-powerful Defenders with stooge ‘Challengers’ at their feet.”

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“[T]his case ... will determine whether the America’s Cup will retain its luster, or whether it will lose its reputation and its essential competitive nature through the manipulations of sharp Defenders and beholden, and thus compliant, Challengers of Record.”

How SNG violated the Deed’s mandate for a “Challenge Cup” (Pages 13-14 and 15)

“SNG has breached its fiduciary duties and violated the Deed of Gift by accepting as the Challenger of Record CNEV, a newly manufactured entity of no substance whatsoever which had never held an annual regatta. SNG did this to get CNEV to go along with the

outrageous and unprecedented Protocol for the 33rd America's Cup which grants SNG unchecked authority and eliminates challenger rights.”

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“By setting up as Challenger of Record a paper entity that would agree to these provisions, SNG has altered the nature of the America's Cup from the competitive ‘Challenge Cup,’ mandated by the Deed of Gift, to an event totally governed by the Defender.”

Why CNEV is not a legitimate Challenger of Record (Pages 16, 17-18 and 24)

“A real yacht club acting in the role of Challenger of Record would have engaged in a true negotiation process designed to generate rules to ensure a fair and competitive race – which is why the requirements of the Deed of Gift are so important”

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“The Deed of Gift sets forth important qualifications that an entity must meet to be a Challenger of Record. The Challenger must be an ‘organized Yacht Club of a foreign country, incorporated, patented, or licensed by the legislature, admiralty, or other executive department, having for its annual regatta an ocean water course on the sea, or on an arm of the sea, or one which combines both.’”

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“[I]t is inconceivable that the settlor [George L. Schuyler, who donated of the America's Cup to the New York Yacht Club by Deed of Gift] would have considered a days-old entity, incorporated solely for the purpose of mounting a challenge, that lacks members, vessels, and any kind of history, and that has never had a regatta, to be an *organized Yacht Club*”

What RYCCS and Mascalzone Latino want (Pages 7-8)

“Mascalzone Latino ... has actively attempted to resolve this dispute, proposing a revised Protocol for the 33rd America's Cup that would essentially mirror the one used for the 32nd Cup which was created through a real mutual consent process. SNG, however, showed no interest in this proposal.”

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“The *amici curiae* hope that by being afforded an opportunity to express their views they will help the Court resolve this action in a way that will preserve this historic and illustrious sporting event. The *amici curiae* wish to stress that to ensure the continued greatness of the America's Cup, the Court should protect the terms of Deed, the intention of the settlor, the respective roles of the Defender and the Challenger, and the mutual consent procedure by which the rules of the race are determined.”

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Editor's Note: For additional background, please go to www.ggyc.com.

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