



AMERICA'S CUP 32

AMERICA'S CUP JURY JURY NOTICE JN012

26 April 2005
El Reto APPLICATION ACJ003



To: Challengers and Defender

Copies: ACM, Chief Measurer, Jury, AC Media

Applicant: Team El Reto on behalf of the Real Federaci3n Espanola de Vela represented by Team El Reto ("El Reto")

1. In response to Jury Notice JN011 El Reto and Mascalzone Latino have each provided submissions dated 25 April on procedural issues in respect of the hearing to be held on 2/3 May 2005. The submissions included advice of their respective witnesses and requests for disclosure of evidence that has to date remained confidential to the party filing the evidence, the Jury and the Technical Director.
2. Mascalzone Latino filed a further response to the submission of El Reto dated 25 April on 26 April.
3. In response to such submissions and pursuant to the Rules of Procedure the Jury provides the following directions.

Procedural directions

4. El Reto's request that the hearing be held in private because of the technical issues and the amount of commercial information that could arise from the witnesses' declarations has already been addressed in paragraph 3 of JN011.
5. Each of El Reto and Mascalzone ("ML") (hereinafter "the Parties") shall prepare a bundle of all their as filed submissions, affidavits, witness statements or declarations and numbered documents. Such bundle shall include all of the 26 exhibits provided as a part of the ML submissions of 18 February, the five affidavit exhibits provided with the El Reto reply of 25 February and the new evidence referred to in the El Reto response of 5 April. The Parties shall exchange these bundles by 28 April 2005 to ensure they are available prior to the conference call on 29 April. Five hard copies of the bundles shall also be prepared for use by members of the Jury and made available to them at the commencement of the hearing. The bundles are not to be forwarded to any other Competitor or to the observers at the hearing. The existing orders for confidentiality (RoP 8.1) shall otherwise continue to apply.
6. These bundles shall be provided for the exclusive purpose of this ACJ003 and on the specific basis and undertaking (which shall be deemed to have been accepted and given by the Parties by receiving such respective bundles) that they will not be used in any other legal proceeding before any jurisdiction, other than the Jury (including a state court or tribunal).
7. The Jury notes that Mr Arnone's and Mr Schneider's additional declaration following the directions contained in JN007 and JN011 has been provided to El Reto.

8. The Jury notes that Mr Vincenzo Onorato, Mr Tom Weaver, Mr Silvio Arrivabene, Mr Andrea Arnone and Mr Andrea Schneider will be able to appear in person on behalf of ML.
9. The Jury notes that Mr Phil Kaiko, Mr John Cutler and Mr Richard Whittaker will give oral evidence at the hearing on behalf of El Reto.
10. The Jury acknowledge El Reto's intention to withdraw Mr Aaron Perry and Mr Scott Vogel's affidavits if ML should not waive cross-examination. ML shall by no later than 30 April advise El Reto and the Jury as to whether they have waived the right to cross-examine these two individuals. If ML does waive the right to cross-examine these witnesses the Jury will not require them to appear (RoP 11.4).
11. The Jury accepts ML's request that Mr Dunning will be available for cross-examination by phone conference (RoP 11.3).
12. The Jury acknowledges the Parties agreement that the order of witnesses should take into consideration that Mr Onorato and Mr Arnone have to leave in the afternoon of 2 May and the Jury will facilitate this request.
13. In the event that a witness due to be cross-examined does not participate to the hearing, the Jury will assess his witness statement according to the Jury's power of assessment of the evidence taking into account all the relevant circumstances, including the fact that the witness was not heard.
14. Any other procedural matter will be dealt with exclusively during the telephone conference with the Parties referred to in JN011, which is to be held on Friday, 29 April at 11h00 BST (10h00UT). This will include the order of witnesses and an indication by the Parties of the time they will need to examine and cross-examine each witness as referred to in paragraph 9 of JN011.

A handwritten signature in black ink, appearing to read 'Bryan Willis'. The signature is fluid and cursive, with a large initial 'B'.

Bryan Willis

America's Cup Jury:

Gabrielle Kaufmann-Kohler, Graham McKenzie, Henry Menin, David Tillett, Bryan Willis (chairman)