



John M. Hintz  
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Telephone: (646) 609-9280

*Attorneys for Respondent Alabama Space Science  
Exhibit Commission*

TO: KENNEDY BERG LLP  
Gabe Berg  
Andrew A. Smith  
401 Broadway – Suite 1900  
New York, New York 10013  
Telephone: (212) 899-3400

*Attorneys for Petitioner Space Race, LLC*

# Supreme Court of the State of New York

## Appellate Division: First Judicial Department

Informational Statement (Pursuant to 22 NYCRR 1250.3 [a]) - Civil

<b>Case Title:</b> Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.		For Court of Original Instance	
SPACE RACE, LLC, Petitioner,  <div style="text-align: center;">- against -</div> ALABAMA SPACE SCIENCE EXHIBIT COMMISSION d/b/a U.S. SPACE & ROCKET CENTER, Respondent.		Date Notice of Appeal Filed	
Case Type		Filing Type	
<input type="checkbox"/> Civil Action <input checked="" type="checkbox"/> CPLR article 75 Arbitration		<input type="checkbox"/> CPLR article 78 Proceeding <input type="checkbox"/> Special Proceeding Other <input type="checkbox"/> Habeas Corpus Proceeding	
<input type="checkbox"/> Appeal		<input type="checkbox"/> Transferred Proceeding	
<input type="checkbox"/> Original Proceedings		<input type="checkbox"/> CPLR Article 78 <input type="checkbox"/> Executive Law § 298 <input type="checkbox"/> CPLR 5704 Review	
<input type="checkbox"/> CPLR Article 78 <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Labor Law 220 or 220-b <input type="checkbox"/> Public Officers Law § 36 <input type="checkbox"/> Real Property Tax Law § 1278		<input type="checkbox"/> Real Property Tax Law § 1278	
<b>Nature of Suit:</b> Check up to three of the following categories which best reflect the nature of the case.			
<input type="checkbox"/> Administrative Review	<input type="checkbox"/> Business Relationships	<input checked="" type="checkbox"/> Commercial	<input type="checkbox"/> Contracts
<input type="checkbox"/> Declaratory Judgment	<input type="checkbox"/> Domestic Relations	<input type="checkbox"/> Election Law	<input type="checkbox"/> Estate Matters
<input type="checkbox"/> Family Court	<input type="checkbox"/> Mortgage Foreclosure	<input type="checkbox"/> Miscellaneous	<input type="checkbox"/> Prisoner Discipline & Parole
<input type="checkbox"/> Real Property (other than foreclosure)	<input type="checkbox"/> Statutory	<input type="checkbox"/> Taxation	<input type="checkbox"/> Torts

Informational Statement - Civil

Appeal			
Paper Appealed From (Check one only):		If an appeal has been taken from more than one order or judgment by the filing of this notice of appeal, please indicate the below information for each such order or judgment appealed from on a separate sheet of paper.	
<input type="checkbox"/> Amended Decree <input type="checkbox"/> Amended Judgement <input type="checkbox"/> Amended Order <input type="checkbox"/> Decision <input type="checkbox"/> Decree	<input type="checkbox"/> Determination <input type="checkbox"/> Finding <input type="checkbox"/> Interlocutory Decree <input type="checkbox"/> Interlocutory Judgment <input checked="" type="checkbox"/> Judgment	<input type="checkbox"/> Order <input type="checkbox"/> Order & Judgment <input type="checkbox"/> Partial Decree <input type="checkbox"/> Resettled Decree <input type="checkbox"/> Resettled Judgment	<input type="checkbox"/> Resettled Order <input type="checkbox"/> Ruling <input type="checkbox"/> Other (specify):
Court: <b>Supreme Court</b>		County: <b>New York</b>	
Dated: <b>04/11/2019</b>		Entered: <b>April 11, 2019</b>	
Judge (name in full): <b>Andrea Masley</b>		Index No.: <b>655649/2018</b>	
Stage: <input type="checkbox"/> Interlocutory <input checked="" type="checkbox"/> Final <input type="checkbox"/> Post-Final		Trial: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes: <input type="checkbox"/> Jury <input type="checkbox"/> Non-Jury	
Prior Unperfected Appeal and Related Case Information			
Are any appeals arising in the same action or proceeding currently pending in the court? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span> If Yes, please set forth the Appellate Division Case Number assigned to each such appeal. <small>The Commission is also appealing the Transcript of Decision entered in this case on April 1, 2019. At the time of this filing, the Appellate Division Case Number has not yet been assigned.</small> Where appropriate, indicate whether there is any related action or proceeding now in any court of this or any other jurisdiction, and if so, the status of the case: There is a related action now pending in the United States District Court for the Northern District of Alabama (removed from the Circuit Court of Madison County, Alabama). The case is styled Alabama Space Science Exhibit Commission d/b/a U.S. Space & Rocket Center v. Space Race, LLC, Civil Action No. 5:19-CV-00315-AKK. The case is ongoing and in the initial pleadings stage.			
Original Proceeding			
Commenced by: <input type="checkbox"/> Order to Show Cause <input type="checkbox"/> Notice of Petition <input type="checkbox"/> Writ of Habeas Corpus			Date Filed:
Statute authorizing commencement of proceeding in the Appellate Division:			
Proceeding Transferred Pursuant to CPLR 7804(g)			
Court: <b>Choose Court</b>		County: <b>Choose County</b>	
Judge (name in full):		Order of Transfer Date:	
CPLR 5704 Review of Ex Parte Order:			
Court: <b>Choose Court</b>		County: <b>Choose County</b>	
Judge (name in full):		Dated:	
Description of Appeal, Proceeding or Application and Statement of Issues			
Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed. This appeal is taken from the Judgment entered in this case on April 11, 2019, in the Clerk's Office of the New York Supreme Court, New York. In this action, Space Race petitioned the Court for an order confirming an arbitration award, issued by an American Arbitration Association panel in favor of Space Race against the Commission in the amount of \$1,365,582.00 for an underlying contract dispute (the "Arbitration Award"). The Honorable Andrea Masley, in the Judgment, entered April 11, 2019, purported to enter judgment in favor of Space Race and against the Commission in the total amount of \$1,405,528.11. The Commission seeks reversal of each and every part of the Judgment.			

Informational Statement - Civil

Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review, the grounds for reversal, or modification to be advanced and the specific relief sought on appeal.

The Commission seeks reversal of each and every part of the Judgment on the grounds that (1) the New York Supreme Court lacked personal jurisdiction over the Commission because the Commission's only activity relating to New York was participating in the arbitration, over its objections; and (2) the New York Supreme Court and the AAA Panel lacked subject-matter jurisdiction because, under Alabama law, which is the governing law under the underlying contract, the Commission possesses sovereign immunity under Article I, Section 14 of the Alabama Constitution of 1901. Additionally, the New York Supreme Court improperly (1) entered a temporary restraining order preventing the Commission from pursuing vacatur of the arbitration award in Alabama State Court, and (2) refused to stay this action pending resolution of the Alabama vacatur proceeding.

### Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

No.	Party Name	Original Status	Appellate Division Status
1	SPACE RACE, LLC	Petitioner	Respondent
2	ALABAMA SPACE SCIENCE EXHIBIT COMMISSION d/b/a U.S. SPACE & ROCKET CENTER	Respondent	Appellant
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Informational Statement - Civil

Attorney Information			
Instructions: Fill in the names of the attorneys or firms for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.			
Attorney/Firm Name: Maynard Cooper & Gale, P.C. attn: William R. Lunsford			
Address: 655 Gallatin Street			
City: Huntsville	State: Alabama	Zip: 35801	Telephone No: 256-551-0171
E-mail Address: blunsford@maynardcooper.com			
Attorney Type: <input type="checkbox"/> Retained <input type="checkbox"/> Assigned <input type="checkbox"/> Government <input type="checkbox"/> Pro Se <input checked="" type="checkbox"/> Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 2			
Attorney/Firm Name: Maynard Cooper & Gale, P.C. attn: John M. Hintz			
Address: 551 Fifth Avenue, Suite 2000			
City: New York	State: New York	Zip: 10176	Telephone No: 646-609-9280
E-mail Address: jhintz@maynardcooper.com			
Attorney Type: <input checked="" type="checkbox"/> Retained <input type="checkbox"/> Assigned <input type="checkbox"/> Government <input type="checkbox"/> Pro Se <input type="checkbox"/> Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 2			
Attorney/Firm Name: Kennedy Berg LLP attn: Gabe Berg and Andrew A. Smith			
Address: 401 Broadway, Suite 1900			
City: New York	State: New York	Zip: 10013	Telephone No: 212-899-3400
E-mail Address: gberg@kennedyberg.com			
Attorney Type: <input checked="" type="checkbox"/> Retained <input type="checkbox"/> Assigned <input type="checkbox"/> Government <input type="checkbox"/> Pro Se <input type="checkbox"/> Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above): 1			
Attorney/Firm Name:			
Address:			
City:	State:	Zip:	Telephone No:
E-mail Address:			
Attorney Type: <input type="checkbox"/> Retained <input type="checkbox"/> Assigned <input type="checkbox"/> Government <input type="checkbox"/> Pro Se <input type="checkbox"/> Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above):			
Attorney/Firm Name:			
Address:			
City:	State:	Zip:	Telephone No:
E-mail Address:			
Attorney Type: <input type="checkbox"/> Retained <input type="checkbox"/> Assigned <input type="checkbox"/> Government <input type="checkbox"/> Pro Se <input type="checkbox"/> Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above):			
Attorney/Firm Name:			
Address:			
City:	State:	Zip:	Telephone No:
E-mail Address:			
Attorney Type: <input type="checkbox"/> Retained <input type="checkbox"/> Assigned <input type="checkbox"/> Government <input type="checkbox"/> Pro Se <input type="checkbox"/> Pro Hac Vice			
Party or Parties Represented (set forth party number(s) from table above):			

Informational Statement - Civil



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

PRESENT: HON. ANDREA MASLEY

PART

IAS MOTION 48EFM

*Justice*

-----X

SPACE RACE, LLC,

Petitioner,

- v -

ALABAMA SPACE SCIENCE EXHIBIT COMMISSION, CORP.  
D/B/A U.S. SPACE & ROCKET CENTER,

Respondent.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 57, 59

were read on this motion to/for

CONFIRM/DISAPPROVE AWARD/REPORT

ADJUDGED that the petition is granted and the award rendered in favor of petitioner and against respondent is confirmed; and it is further

ADJUDGED that petitioner Space Race LLC, with offices at 271 Madison Avenue, Suite 705, New York, New York, 10016, do recover from respondent Alabama Space Science Exhibit Commission d/b/a U.S. Space & Rocket Center, with offices at 1 Tranquility Bay, Huntsville, Alabama 35805, the amount of \$1,365,582.00, plus interest at the rate of 9% per annum from December 15, 2018, as computed by the Clerk in the amount of \$ 39,396.11, together with costs and disbursements in the amount \$ 550.00 as taxed by the Clerk, for the total amount of \$ 1,405,528.11, and that the petitioner have execution therefor.

3/11/19  
DATE

ANDREA MASLEY  
ANDREA MASLEY, J.S.C.

CHECK ONE:

APPLICATION:

CHECK IF APPROPRIATE:

☒

CASE DISPOSED

☒

GRANTED

☐

DENIED

☐

SETTLE ORDER

☐

INCLUDES TRANSFER/REASSIGN

☐

NON-FINAL DISPOSITION

☐

GRANTED IN PART

☐

SUBMIT ORDER

☐

FIDUCIARY APPOINTMENT

☐

OTHER

☐

REFERENCE

FILED

APR 11 2019

COUNTY CLERK'S OFFICE  
NEW YORK

SPROCKETEERS.ORG

SUPREME Court  
County of New York

SPACE RACE, LLC

Index No.

65549/2018

Plaintiff(s)

-against-

Costs of:

ALABAMA SPACE SCIENCE EXHIBIT COMMISSION d/b/a U.S. SPACE & ROCKET  
CENTER

SPACE RACE LLC

Defendant(s)

**COSTS**Costs Before Note of Issue  
CPLR § 8201 subd. 1 ..... \$ 200Costs After Note of Issue  
CPLR § 8201 subd. 2 ..... \$Trial of Issue  
CPLR § 8201 subd. 3 ..... \$Allowance by Statute  
CPLR § 8302 (a), (b) ..... \$Additional Allowance  
CPLR § 8302 (d) ..... \$Motion Costs  
CPLR § 8202 ..... \$Appeal to Appellate Term  
CPLR § 8203 (b) ..... \$Appeals to Appellate Division  
CPLR § 8203 (a) ..... \$Appeals to Court of Appeals  
CPLR § 8204 ..... \$Costs upon Frivolous Claims  
And Counterclaims  
CPLR § 8303-a ..... \$

..... \$

..... \$

..... \$

I HEREBY CERTIFY THAT I HAVE  
ADJUSTED THIS BILL OF COSTS AT

\$ 550.00

APR 11 2019

CLERK

Costs \$ 200

Disbursements

Total \$ 550

\$ 550

**DISBURSEMENTS**

Fee for Index Number CPLR § 8018 (a) ..... \$ 190

Referee's Fees CPLR § 8301 (a)(1), 8003(a) ..... \$

Commissioner's Compensation CPLR § 8301 (a)(2) ..... \$

Clerk's fee, Filing Notice of Pend. Or Attch.  
CPLR § 8021 (a)(10) ..... \$Entering and Docketing Judgment  
CPLR § 8301 (a)(7), 8016(a)(2) ..... \$

Paid for Searches CPLR § 8301 (a)(10) ..... \$

Affidavits &amp; Acknowledgments CPLR § 8009 ..... \$

Serving Copy Summons & Complaint  
CPLR § 8011(h)(1), 8301 (d) ..... \$

Request for Judicial Intervention ..... \$ 95

Note of Issue CPLR § 8020(a) ..... \$

Paid Referee's Report CPLR § 8301 (a)(12) ..... \$

Transcripts and Filing CPLR § 8021 ..... \$

Certified Copies of Papers § 8301(a)(4) ..... \$

Satisfaction Piece CPLR § 5020(a), 8021 ..... \$

Certified Copy of Judgment CPLR § 8021 ..... \$

Postage CPLR § 8301(a)(12) ..... \$

Jury Fee CPLR § 8020 (c) ..... \$

Stenographers' Fees CPLR § 8002, 8301 ..... \$

Sheriff's Fees on Execution CPLR § 8011, 8012 ..... \$

Sheriff's Fees, Attachment, Arrest, etc. CPLR § 8011 ..... \$

Paid Printing Cases CPLR § 8301(a)(6) ..... \$

Clerk's Fees, Court of Appeals § 8301(a)(12) ..... \$

Paid Copies of Papers CPLR § 8016 (a)(4) ..... \$

Motion Expenses CPLR § 8301(b) ..... \$ 45

Fees for Publication CPLR § 8301 (a)(3) ..... \$

Serving Subpoena CPLR § 8011(h), 8301 (d) ..... \$

Paid for Search CPLR § 8301(a)(10) ..... \$

Referee's Report ..... \$

Attendance of Witnesses  
CPLR § 8001(a)(b)(c), 8301 (a)(1) ..... \$**FILED**

APR 11 2019

COUNTY CLERK'S OFFICE  
NEW YORK

SPROCKETEERS.ORG



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

SPACE RACE, LLC,

*Petitioner,*

v.

ALABAMA SPACE SCIENCE EXHIBIT  
COMMISSION d/b/a U.S. SPACE &  
ROCKET CENTER,

*Respondent.*

Civil Action No. 655649/2018

**AFFIRMATION OF  
ANDREW A. SMITH IN SUPPORT OF  
PROPOSED JUDGMENT**

STATE OF NEW YORK     }  
                                      } ss.:  
COUNTY OF NEW YORK }

ANDREW SMITH, an attorney duly admitted to practice before the Courts of the State of New York, hereby affirms and states under penalty of perjury as follows:

1. I am associated with the firm of Kennedy Berg LLP, counsel to Petitioner in this action.

I submit this affirmation in support of the entry of the judgment against Respondent ALABAMA SPACE SCIENCE EXHIBIT COMMISSION d/b/a U.S. SPACE & ROCKET CENTER

2. On April 3, 2019, the Justice Masley issued a Decision and Order ("Order") adjudging that the petition is granted and the award rendered in favor of petitioner and against respondent is confirmed.

3. The Order further adjudged that petitioner Space Race, LLC, a corporation with offices at 271 Madison Avenue, Suite 705, New York, New York 10016, shall have judgment and recover against respondent Alabama Space Science Exhibit Commission d/b/a U.S. Space & Rocket Center, an entity with offices at 1 Tranquility Bay, Huntsville, Alabama 35805, in the amount of \$1,365,582.00,

plus interest at the rate of 9% per annum from December 15, 2018 to be calculated by the Clerk, together with costs and disbursements as taxed by the Clerk.


4. On April 5, 2019, a Proposed Judgment was filed with the Court. A true and correct copy of the proposed judgment is attached hereto as Exhibit 1.

5. On April 5, 2019, a Bill of Costs was filed with the Court. A true and correct copy of the Bill of Costs is attached hereto as Exhibit 2.

6. The undersigned attorney of record for the petitioner in the above entitled action states that the disbursements specified in the attached Bill of Costs have been and were necessarily made or incurred therein and are reasonable in amount.

Dated: April 11, 2019

New York, NY



Andrew A. Smith, Esq.

**FILED**

**APR 11 2019**

**COUNTY CLERK'S OFFICE  
NEW YORK**

655649/18

401 Broadway – Suite 1900  
New York, New York 10013  
Telephone: 212.899.3400

*Attorneys for Petitioner*

*Judgment*

1-2

**FILED AND  
DOCKETED**

APR 11 2019

AT 12:26 PM  
N.Y., CO. CLK'S OFFICE

## 12 of 13

*/s/ John M. Hintz*

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John M. Hintz

**MAYNARD, COOPER & GALE, PC**

The Fred F. French Building

551 Fifth Avenue

Suite 2000

New York, NY 10176

Telephone: (646) 609-9280

*Attorney for Respondent-Appellant Alabama Space  
and Science Exhibit Commission*