

Excerpts:

From The Jury Desk – The CYA Judges Newsletter

<http://www.sailing.ca/racing/officials/index.asp>

Notice 5; April, 2005

Redress Question:

At a world championship, in a fleet of 75 boats, a boat had been granted redress. Under the circumstances, the best solution decided by the international jury was average points of her finishing positions for all races sailed not including the race in which she was damaged. Her finishing positions were in the bottom third of the fleet. The fleet had been very aggressive at the start and a black flag had been frequently used, with the number of starters in each race almost always being less than 75. In the race in question after two general recalls under the black flag, the fleet finally started, but the fleet size had been reduced by twenty eight boats. The boat was sailing in approximately 31st position on leg two of six when she was damaged. When her average points were calculated, she would score 48, one position worse than last place.

What is your solution?

Answer/Responses:

One of the problems when writing a question is sometimes an assumption is made by the reader that is not part of the

question. The assumption made alters the solution. A number of replies started by questioning the jury's decision to grant

redress, or the type of redress granted. To answer some of those concerns the following is provided.

- 1) The grounds for redress were met. The boat was damaged by a boat required to keep clear and she was not able to complete the race.
- 2) The incident happened on the 2nd leg of a 6 leg windward / leeward course. This was too early in the race to grant the position the boat was in at the time of the incident.
- 3) Since the number of starters varied significantly, one race to the next, the competitor never raced against the same number of boats. Her finishing position was being affected as much by the number of actual starters as it was her sailing abilities.
- 4) The incident happened late in the series, thus there were enough races completed to calculate her score.

There were a number of answers submitted that took the facts at face value. Of the ones submitted, we have printed two. They both use the concept of calculating a percentage to offset the problem of a different number of starters and applying that percentage to the race in question. The first has some merit only if the number of starters were reasonable consistent except for that race. Michael Nicoll-Griffith and Katie Coleman-Nicoll had a variation on the same theme: From Katie's reply:

"I think that the fairest solution would be to find the average points, as you have done, but then figure an equation for that particular race as follows: $X / 47 = 48 / 75$ In that race they would be awarded 30 out of 47 boats."

However, Steve Tupper submitted exactly the solution that was used.

Take each race previously sailed and determine a percentage score for our boat, based upon the number of finishers. Then add the percentages and divide by the number of races. This would mean she would have a percentage score going into the race in question. Once it was decided to award redress I would take that percentage score and apply it to the 47 finishers and give that position as redress. This would guarantee something greater than 47th unless she had been the last finisher in all preceding races."

Notice 6; May, 2005

Question:

In a recent spring two day regatta, the NOR and SI's required that all support boats be identified by displaying a white flag with a number supplied by the organizer. During registration a father of a younger competitor, although he had a small RIB and intended to be on the water, refused to register as a support boat claiming he was not a coach or a member of a team, he was "just a father".

During the third race of a windy day that had many boats capsized, the young competitor was having a difficult time. The sailor capsized a number of times and now was having difficulty in righting her boat. After being in the water (estimated temperature at 5°C) for five to ten minutes, the race course chairman instructed a safety boat to pull the sailor from the water. The father intercepted the safety boat and refused to let the safety boat assist the sailor. Shortly thereafter the sailor did right the boat and gained control and finished the race.

- As chief judge, you are informed of this after the regatta. What action can you take?
- If you were informed of the father's statement at the time of registration, what action could you take?

- There were jury boats on the water, if you were informed of the problem on the water when it occurred, what action could you take?

Answer/Responses:

We received a few responses to the questions. I will also include what action was taken.

For question one, of the three responses received, one suggested no action could be taken; one suggested that a letter could be written and the father be informed at future event he will not be allowed to be one the site unless he agrees to abide by the RC's (safety boat) decisions; and one wanted to hold a hearing. It is not clear what racing rule was broken or how one would call a hearing after the event.

For question two, one suggested the entry be refused because the support boat refused to be identified; one suggested the entry could not be refused but controls could be place on the support boat by denying launch and mooring facilities at the club; and the third suggested the father's statement was correct, they were just a spectator boat.

For question three, one suggested that a jury boat be sent and have it deal with the father while the safety boat assist the competitor. The other two responses appeared to have misread the problem.

What was done was a post regatta meeting held with the AO, RC and PC. At the meeting a letter to the parent was considered but eventually abandoned. The SI's governing support boats used at this club were rewritten. The term 'support boat' does not exclude a private vessel owned and or operated by a parent. Discussing this topic there is one school of thought which suggests the entry could be refused under 76.1 for the reason that an associated support boat refused to be identified. The SI section also linked the support boat to the athlete and stated that a violation of the SI's section governing support boats would be considered a violation of rule 2, Fair Sailing. The penalty applied is at the discretion of the protest committee but is non-excludable from her scores.

As a general statement, there have been a number of reports (and they seem to be increasing) of parental interference at youth events, in particular Optimist events. (It seems that parents grow up as the child gets older.) This is causing concern by all involved, organizing authorities, race officers and protest committee members alike. When discussing the topic, it very quickly broadens to include coaches. Everyone has heard the stories: red hat / green hat; travel up the right side / left side; bow to or stern to the fleet; etc. Each has been told and retold.

However the sure test question to the fact of the event is "So how did the protest end?" (Choices are rule 2, Fair Sailing, rule 41, Outside Help, or rule 69, Gross Misconduct) The response will almost surely be, 'No protest was filed.' Try not to get caught up in the rhetoric at the regatta organization meeting and beware the SI that have fixed, no choice, penalties that are automatic affecting sailors for the transgression of a coach or support boat

Notice 7, July 18, 2005

Question:

At a recent regatta, during race 6 of a ten race schedule, during a start in which rule 30.1, Round-an-end Rule, was in effect, at one minute before the start, a boat was identified outside the committee boat but above the extension of the start line. She was totally on the pre-start side of the start line at the start signal but as she crossed the start line she was hailed over early and the X flag was displayed. The boat re-rounded the committee boat and crossed the start line again. At the urging of the race committee chairman, the boat requested redress. The RC Chairman's testimony supported the boats statements. For the record, the boat's scores were 1 – 21, 2 – 29, 3 – 26, 4 – 43, 5 – 35, 6 – 39, and 7 – 34. (There were 4 races on the second day of racing so the results of race 7 were also known.). Would you grant redress? What redress would you give?

Answer:

Almost all the people responding would grant redress. One or two thought it was improper for the RC to encourage the filing of the request for redress, and thought that a more appropriate action by RC would have been to initiate the request. Most of the respondents granted the same redress. A couple of responses offered an alternate solution to average only races 4, 5, & 7 but also contained the one most used: average of all of the races sailed including race 7 but not the race in question. The redress granted, rounded to the nearest whole number is 31.

Notice 8, September 2005

Question

At an international regatta, a boat was accompanied by a coach. The boat became involved in a boat-on-boat incident in which a protest was lodged. The decision went against them and they were disqualified. When they returned to their residence they discussed the matter with their coach who had been at the regatta site but left before the hearing started. The coach, who had been video taping much of the race claimed to have the incident on tape. The next day, the boat requested that the hearing be re-opened because of the new evidence. You are on the international jury. Do you re-open the protest?

Answer/Responses:

Editors Note: There are two possible answers to the question: yes or no. There were a number of responses, some supporting yes and some supporting no. Given the information as written, it is slanted to a yes answer however the question was meant to generate the thought process on how you would react and the questions you need to ask. Two responses below illustrate the problem and the thought process.

Response 1

I would say 'Yes', I would reopen the hearing as allowed by Rule 66 since the video meets the criteria for significant new evidence, and the request was made within 24 hours of the decision. One could argue 'No', the competitors knew they were being video taped by their coach and chose not to show that evidence nor state that they may have that evidence, but that would be an unfair assumption on the part of the Jury I would think.

Response 2

Hi Leo,

I was intrigued by the problem that you posed in Notice #8. It has a very quick answer, (assuming that there was no time limit difficulty) but which I feel is an "unreal" response. In principle, the answer is "yes". (Rule 66).

But then "it depends" in my view, on the many other factors which are relevant to a reopening being justified.

Based on personal experience I would want to consider/know the following before rushing to a rehearing:

- i) What was the nature of the incident? What Rule applied? A collision? What sort of collision? A need to alter course to avoid same? A SI violation? A luffing exercise? The video might be wholly irrelevant to the action(s) that led to the protest and be only an exercise in gamesmanship by a competitor who wants his day in court all over again!*
- ii) Were protest flags a feature? Was a mark involved? What other boats were, in the hearing, identified as being or claimed to be nearby? If so they may serve to properly identify the video as germane to the actual protest: i.e. properly and conclusively couple the video to the protest events.*
- iii) Why was there no communication between the competitor and the coach prior to the hearing?*
- iv) Which of the "facts found" on the protest form does the claimant argue will/may be overturned by the video?*
- v) What are the attitudes and behaviour of the coach and competitor towards you, the chair of the PC, when this request is made? And so on!*

Depending on the answers to the above, I might/will also wish to see the video with the PC before committing to a rehearing.

In summary, and with some or all of the above caveats being satisfied, if the claim seems very likely to lead to a better outcome of the protest I would have no hesitation whatsoever in reopening the hearing with the sailor (not the coach) explaining the video to the protest committee and his adversary. Ha! This was meant to be a brief reply and already is a page long. However the question seems to deserve some discussion. That's quite enough from me.

The Actual Decision:

The international jury decided not to reopen the hearing. Their decision was based on the phrase "significant new evidence", and that the evidence must be both significant and new. During the preliminary hearing whether to reopen the protest, it became very clear the competitor was aware that the tape existed and chose not to present it at the hearing thus it did not meet the test of 'new'.

Notice 9 – December 2005

Question:

Situation: At the start of a race, the race committee displays flag Z as the preparatory signal. At the starting signal, a large number of boats are on the course side of the line and there is a general recall. Boat A is identified as breaking rule 30.2. For the next start, the race committee again displays flag Z at the preparatory signal. Boat A is once again identified as breaking rule 30.2, but she returns to the pre-start side of the line before the starting signal. The race is started without an 'individual' or 'general' recall. Boat A finishes the race. The scorer asks the jury "Should Boat A receive a 20% penalty or a 40% penalty?"

Answer:

Rule 29.2 provides for a 'new start' after a general recall and rule 36 requires a boat to carry a penalty under rule 30.2 in a restarted race. Therefore, a breach of rule 30.2 in a 'new' starting sequence is a separate incident and each incident results in a penalty. Using rule 44.3(c), Boat A would receive a penalty score equal to two 20% penalties, but not worse than Did Not Finish.

As one person wrote: "I'm not sure if this was a trick question but, the number of positions for two RRS 44.3(c) 20% penalties is not always the same as a single 40% penalty." It was not a trick question but the point is correct.

The race committee or scorer should be aware that the manual entry of 40% in some scoring programs may not result in a penalty equal to two 20% penalties. Depending on the number of entries, a 40% penalty, calculated in accordance with rule 44.3(c), may result in an odd number. The sum of two equal 20% penalties is always an even number

Notice 10 – March 2006

Question:

In a small dinghy regatta, boat A and B were very close in points, leading the regatta. With only one throw out allowed in the regatta, Boat A was currently discarding an OCS while boat B was discarding a 6th place finish. If boat A were to have a 'bad' race, boat B would be sure to win the regatta as the point gap between 2nd and 3rd was quite substantial.

With a 'black flag' flying on the RC vessel at the start of race 6 of a seven race series in a 65 boat fleet, boat B was several boat lengths over the start line at the start. Boat B sailed down the line until she was on top of boat A. Boat B sailed in boat A's air, forcing A well into a mid-fleet position by the weather mark. Boat B retired at the weather mark. Boat A eventually sailed to a 28th position. Boat A filed a protest.

You are the protest committee. Would A be successful in her protest and if so, under what rule?

Answer:

There were a number of responses but the following was most succinct.

ISAF Case 65 covers this quite nicely and the boat B broke Fundamental Rule 2. A boat that knowingly breaks the Black Flag Rule shall retire promptly.

Notice 11 – June 2006

Question:

Boat A sees boat B round the wrong mark. Boat A finishes ahead of B and waits at the finish line. When boat B crosses the line, boat A hails "protest", displays a flag and files a protest within protest time.

You are the committee: What is your decision?

Responses:

A composite of the common responses is:

Since boat B may correct any errors in sailing the course at any time until she finishes, (RRS 28.1), she does not break rule 28.1 until she finishes. Boat A notified boat B at the first reasonable opportunity when boat B finished. The requirements of RRS 61 were fulfilled. The protest is valid.

Unfortunately, this approach is not correct. RRS 61.1(a) states in part: "... When her *protest* concerns an incident in the racing area that she is involved in or sees, she shall hail 'Protest' and conspicuously display a red flag at the first reasonable opportunity for each. ..."

The incident occurred when boat B rounded the incorrect mark not when she finished. The protest is invalid.

There is also an unfortunate consequence, since the protest is invalid and did not involve serious damage or injury; RRS 60.3 prevents the protest committee from acting. Boat B, unless she withdraws of her own accord, retains her finish position.

Notice 12 - September 2006

Question

May the NOR or SIs state that although the right of appeal is not denied, final standings and awards will not be affected by any appeal decision?

Answer:

No. Case 61 states rule 86.1 prohibits changing any part of rule 70 or 71 in the sailing instructions. When the decision of the protest committee is changed or reversed upon appeal, the final standings and the awards must be adjusted accordingly.

If it is essential to promptly determine the result of a race (or series) that will qualify a boat to compete in a later stage of an event or a subsequent event, the OA would be wise to deny the right of appeal under rule 70.4. In Canada, if the protest committee is not an international jury properly constituted in compliance with Appendix N, the denial of the right to appeal must be stated in the NOR and SIs and requires the approval of the CYA.

Notice 13 – December 2006

Question

From a protest in an international regatta with an international jury present: the facts found during the hearing were:

1. When 8170 approached the leeward starboard gate mark, she entered the two boat length zone clear ahead of 8153.
2. As 8170 gybed and rounded the mark, she was struck and holed by 8153.
3. 8170 hailed "Protest" and 8153 did complete a two turn penalty.
4. 8170 had to withdraw from the race due to the damaged hull.

You are on the jury. What is your decision?

Answer:

A quick look at 44.1 – the last part of the rule: "However, if she caused injury or serious damage or gained a significant advantage in the race or series by her breach her penalty shall be to retire." Since 8153 did not retire, she is DSQd from that race.