



**SAIL·VOILE
CANADA**



Sail Canada Appeals

Interpretations of the Racing Rules of Sailing 2021 - 2024

MARCH 2021 EDITION

PREFACE

The Sail Canada Appeals, Interpretations of the Racing Rules, 2021–2024 March 2021 Edition brings the Sail Canada Appeals up to date with the current version of *The Racing Rules of Sailing*. This was accomplished through a review of each appeal to rewrite decisions as though they were decided under the 2021–2024 rules. Along with updating the appeals to the current rules, there were numerous editorial revisions, including converting imperial measures to metric. As a result of the review, nineteen additional appeals were deleted from the book. Since 1971, seven Sail Canada Appeals have been adopted as World Sailing Cases, becoming authoritative interpretations of the racing rules. These Appeals are no longer published in this book.

The March 2021 Edition includes four appeals that were decided since the April 2017 Edition. Appeals that augment interpretations that are already published will be added sequentially to the book. Revisions may be published periodically to the Sail Canada web site at <https://sailing.ca>.

The update to the Sail Canada Appeals, Interpretations of the Racing Rules, 2021–2024 was prepared by the members of the Sail Canada Appeals Committee: Lynne Beal, Andrew Alberti, Kathy Dyer, Rick Hatch, and Leo Reise. Our secretary, Irene McNeill supports our work.

Comments and suggestions to the Sail Canada Appeals Committee are at sailcanada@sailing.ca.

Lynne Beal
Chair, Sail Canada Appeals Committee
March, 2021

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Sail Canada
Portsmouth Olympic Harbour
53 Yonge Street
Kingston, Ontario K7M 6G4
E-mail: appeals@sailing.ca

MEMBERS OF THE SAIL CANADA APPEALS COMMITTEES

The Sail Canada Appeals Committee heard its first appeal in August 1962 and appeals were heard thereafter as they occurred. The first formal record of the decisions of the appeals committees was published as a booklet in 1973. The following Canadian sailing officials are the members who have served on the Appeals Committees since its inception:

D M Jemmett	1962	Chair 1962	
Lawrence Hynes	1962 to 1963		
Lindsay Place	1962		
L E Metcalfe	1963	Chair 1963	
Al Rae	1963		
E G Sorsoleil	1963		
Livius Sherwood	1963 to 2002	Chair 1963 to 1976	
Jack Cameron	1970 to 1997		
Graeme Hayward	1970 to 2003	Chair 1980 to 2003	Member Emeritus 2004–2013
Lynn Watters	1970 to 2000		Member Emeritus 2000–2012
Bart Dalton	1971 to 1978		
John Holmes	1971 to 1999		
Harry Jemmett	1971 to 1978		
Warden McKimm	1971 to 1978		
Charles Steinbach	1971 to 1989		
Dan Harmer	1974 to 1979	Chair 1976 to 1979	
David Hague	1979 to 1994		
Bill Cheek	1980 to 2001		Member Emeritus 2001–2012
Peter Evans	1980 to 1994		
Heather Robertson	1983 to 1989		
Warren Nethercote	1989 to 2018	Chair 2004 to 2006	
Stephen Tupper	1991 to 1997		
David Pelling	1995 to 2003		
Don Martin	2002 to 2020		
Leo Reise	2003 to present		
Lynne Beal	2004 to present	Chair 2006 to present	
Andrew Alberti	2010 to present		
Rick Hatch	2010 to present		
Kathy Dyer	2019 to present		
Irene McNeill	Secretary, 2010 to present		

ABBREVIATIONS

X, Y, C, D, etc. for a particular boat or boats, or

- A boat clear ahead
- B boat clear astern
- I inside boat
- L leeward boat
- M middle or intervening boat
- O outside boat
- P port-tack boat
- S starboard-tack boat
- W windward boat

Combinations of these letters are also used, such as SL for starboard leeward

- PC protest committee
- PRO principal race officer
- RC race committee
- MNA member national authority
- NoR notice of race
- SIs sailing instructions

STYLE NOTE

For clarity and brevity, the appeals use the feminine gender in the historical sense when referring to a boat and the masculine gender when referring to a person.

However, the members of the appeals committee have found that a person's gender plays no part in determining his or her abilities

Terminology consistent with terms in the Racing Rules of Sailing is adopted throughout the appeals.

SECTION 1: ABSTRACTS OF SAIL CANADA APPEALS BY RULE NUMBER

*Section 1 enables readers to find the appeal that interprets a particular rule. For example, three appeals (24, 34 and 39) interpret rule 1.1. The abstracts for these three appeals are in Section 1 under the heading, Rule 1.1, Safety: Helping Those in Danger. For the rules of Part 2, there are many appeals referring to the rules, but some references are secondary. In such cases, the abstract is not listed under the rule of Part 2, although the appeal is identified. The abstract may not mention every rule that is interpreted by the appeal; therefore, the reader must study the appeal itself in Section 2, to see how the rule has been interpreted or illustrated.**

*Text derived from *The Case Book for 2021-2024, Interpretations of the Racing Rules*, World Sailing, January 2021.

RACE SIGNALS

■ Race Signals

APPEAL 33

When conducting a race, the race committee must satisfy both the visual and sound signal requirements of the race signals section of the rules.

■ Race Signals, Changing the Next Leg

APPEAL 87

A boat must sail a changed course when it is signalled by the race committee.

DEFINITIONS

■ Definitions, Conflict of Interest

APPEAL 57

A boat must finish in accordance with the definition. Competitors who have retired from the series may participate on the protest committee. They no longer have a conflict of interest because they have nothing to gain or lose by a protest committee's decision.

■ Definitions, Finish

APPEAL 9

A boat is racing and remains subject to the rules of Part 2 until she has cleared the finishing line and finishing marks. She is subject to a penalty if she breaks a rule while racing, and may be disqualified under rule 23.1 if, after she clears the finishing line and marks, she interferes with a boat that is still racing.

APPEAL 21

Boats shall sail the course prescribed by the sailing instructions but, whatever may be implied from the sailing instructions, they shall finish in accordance with the definition Finish.

APPEAL 57

A boat must finish in accordance with the definition. Competitors who have retired from the series may participate on the protest committee. They no longer have a conflict of interest because they have nothing to gain or lose by a protest committee's decision.

APPEAL 112

When a boat has sailed the course and meets the definition Finish, a race committee shall score her in her finishing place. If a boat touches a mark at the finishing line the race committee may protest her for a breach of rule 31.

■ Definitions, Keep Clear

APPEAL 14

A windward boat that overtakes a leeward boat so close to windward that the leeward boat cannot change course without immediately making contact does not keep clear, and breaks rule 11.

APPEAL 116

In gusty conditions, a starboard tack boat may sail her course with no need to take avoiding action, in expectation that a port tack boat that is keeping clear will continue to do so. A protest is upheld when a boat breaks a rule. If she has taken an appropriate penalty, she shall not be further penalized for that breach.

■ Definitions, Mark-Room

APPEAL 105

When mark-room has been given, an inside overlapped boat on port tack is not exonerated for failing to keep clear of a boat on starboard tack. A boat that has not cleared the finishing line and marks is racing and subject to penalty if protested.

■ Definitions, Obstruction

APPEAL 51

A boat is on port or starboard tack corresponding to her windward side. A boat that inadvertently tacks onto port tack ahead of a starboard-tack boat cannot claim that she is an obstruction, to avoid breaking rule 10.

APPEAL 56

A right-of-way boat clear ahead is an obstruction to boats clear astern. When an overlapped right-of-way boat chooses to pass to leeward of the obstruction, she shall give a boat overlapped to windward room to pass between her and the obstruction.

APPEAL 70

When boats are overlapped at an obstruction, including an obstruction that is a right-of-way boat, the outside boat must give the inside boat room to pass between her and the obstruction.

■ Definitions, Party

APPEAL 44

A boat may appeal a decision of a protest committee only when she was a party to the hearing. A boat that decides not to start or not to continue in a race because of an apparently incorrect action by the race committee is not entitled to redress because her own action made her score significantly worse.

■ Definitions, Proper Course

APPEAL 8

A boat's proper course may not be the direct course to the next mark. A leeward boat subject to rule 17 may sail a higher course, if she would choose to sail that course in the absence of the windward boat.

APPEAL 54

A leeward boat which establishes and maintains an overlap more than two boat lengths to leeward is not restricted to sailing no higher than her proper course.

■ Definitions, Racing

APPEAL 9

A boat is racing and remains subject to the rules of Part 2 until she has cleared the finishing line and finishing marks. She is subject to a penalty if she breaks a rule while racing, and may be disqualified under rule 23.1 if, after she clears the finishing line and marks, she interferes with a boat that is still racing.

APPEAL 105

When mark-room has been given, an inside overlapped boat on port tack is not exonerated for failing to keep clear of a boat on starboard tack. A boat that has not cleared the finishing line and marks is racing and subject to penalty if protested.

■ Definitions, Rule

APPEAL 26

A boat may be disqualified for breaking a class rule which is in effect under the definition Rule.

APPEAL 45

A protest committee may extend the protest time limit when the protestor is not aware of the facts justifying the protest until after the race. Class restrictions on eligibility of a helmsman for certain class-sanctioned events apply only to those specific events. They do not apply to other open events since they are not class rules.

■ Definitions, Sail the Course

APPEAL 59

When the last leg of a shortened course passes by a mark that does not begin, bound or end that leg, that mark has no required side. A hearing that denies due process because of any procedural flaw is invalid.

APPEAL 74

Sailing instructions should be written and courses designated to ensure that there is clear distinction between rounding marks and passing marks. A protest hearing and decision must be limited to the particular incident that has been described in the protest.

APPEAL 87

A boat must sail a changed course when it is signalled by the race committee.

APPEAL 115

Parties to a protest who are denied the opportunity to question a witness are denied due process. When due process is denied, the protest committee must find some remedy. Reopening the hearing may be required to do this.

■ Definitions, Start

APPEAL 60

Oral instructions given at a competitors' meeting ashore have no authority unless they are published as written amendments to the sailing instructions.

BASIC PRINCIPLES

■ Sportsmanship and the Rules

APPEAL 102

The Racing Rules of Sailing apply to boats that participate in a race. A competitor who commits breaches of good manners or sportsmanship or both over a protracted period commits misconduct. The jurisdiction of the protest committee is limited to the race or series to which it is appointed.

PART 1 – FUNDAMENTAL RULES

■ Rule 1.1, Safety: Helping Those in Danger

APPEAL 24

A boat that breaks a rule of Part 2 and causes serious damage to another boat must not only retire, but must also stand by to give all possible help to the endangered boat, even without a request to do so.

APPEAL 34

The requirement “to give all possible help” demands a high standard of compliance, and a boat may be required to render help or stand by to do so, even though another competitor is already doing so.

APPEAL 39

When a right-of-way boat changes course, she shall give the other boat room to keep clear. Notwithstanding the proximity of a race committee boat, a boat may be subject to disqualification for failing to help another boat in danger.

■ Rule 2, Fair Sailing

APPEAL 4

When a right-of-way boat touches a keep-clear boat that is not keeping clear, without causing damage or injury, she does not break rule 2, and she is exonerated for breaking rule 14.

APPEAL 109

A boat that cannot be identified although it may have broken a rule, cannot be penalized. A fact that is found on the weight of evidence may not be appealed. Redress under rule 62.1(d) may be given only when a boat has been penalized or a member of her crew has been subject to disciplinary action with respect to the incident.

■ Rule 3, Decision to Race

APPEAL 44

A boat may appeal a decision of a protest committee only when she was a party to the hearing. A boat that decides not to start or not to continue in a race because of an apparently incorrect action by the race committee is not entitled to redress because her own action made her score significantly worse.

APPEAL 102

The Racing Rules of Sailing apply to boats that participate in a race. A competitor who commits breaches of good manners or sportsmanship or both over a protracted period commits misconduct. The jurisdiction of the protest committee is limited to the race or series to which it is appointed.

■ Rule 4, Acceptance of the Rules

APPEAL 24

A boat that breaks a rule of Part 2 and causes serious damage to another boat must not only retire, but must also stand by to give all possible help to the endangered boat, even without a request to do so.

APPEAL 102

The Racing Rules of Sailing apply to boats that participate in a race. A competitor who commits breaches of good manners or sportsmanship or both over a protracted period commits misconduct. The jurisdiction of the protest committee is limited to the race or series to which it is appointed.

PART 2 – WHEN BOATS MEET

■ Part 2 Preamble

APPEAL 9

A boat is racing and remains subject to the rules of Part 2 until she has cleared the finishing line and finishing marks. She is subject to a penalty if she breaks a rule while racing, and may be disqualified under rule 23.1 if, after she clears the finishing line and marks, she interferes with a boat that is still racing.

SECTION A – RIGHT OF WAY

■ Rule 10, On Opposite Tacks

APPEAL 4

When a right-of-way boat touches a keep-clear boat that is not keeping clear, without causing damage or injury, she does not break rule 2, and she is exonerated for breaking rule 14.

APPEAL 24

A boat that breaks a rule of Part 2 and causes serious damage to another boat must not only retire, but must also stand by to give all possible help to the endangered boat, even without a request to do so.

APPEAL 39

When a right-of-way boat changes course, she shall give the other boat room to keep clear. Notwithstanding the proximity of a race committee boat, a boat may be subject to disqualification for failing to help another boat in danger.

APPEAL 40

A right-of-way boat is disqualified when she does not attempt to avoid contact and the contact causes damage. Penalty turns must be taken promptly, one after the other.

APPEAL 51

A boat is on port or starboard tack corresponding to her windward side. A boat that inadvertently tacks onto port tack ahead of a starboard-tack boat cannot claim that she is an obstruction, to avoid breaking rule 10.

APPEAL 55

A right-of-way boat must avoid contact with another boat whenever reasonably possible. When she has the opportunity to avoid a boat that has already begun to act to keep clear, but she changes course in a manner that does not give the keep-clear boat room to keep clear, she breaks rule 16. When such action makes contact inevitable, she also may be penalized under rule 14 if damage results.

APPEAL 61

A keep-clear boat that cannot keep clear of a right-of-way boat because of rigging failure is not exonerated on this account for breaking a rule of Part 2.

APPEAL 71

Both right-of-way and keep-clear boats must keep a proper look out, particularly during the prestart. Both S and P are disqualified when S continually changes course towards P and P takes no action to avoid contact, causing damage.

APPEAL 75

A protest committee must arrive at a single set of facts in an incident.

APPEAL 104

Both the diagram and written facts are facts found by the PC. Neither takes precedence over the other. Rule R5 gives a national authority the authority to require the PC to provide revised or additional facts that resolve the conflict.

APPEAL 105

When mark-room has been given, an inside overlapped boat on port tack is not exonerated for failing to keep clear of a boat on starboard tack. A boat that has not cleared the finishing line and marks is racing and subject to penalty if protested.

APPEAL 116

In gusty conditions, a starboard tack boat may sail her course with no need to take avoiding action, in expectation that a port tack boat that is keeping clear will continue to do so. A protest is upheld when a boat breaks a rule. If she has taken an appropriate penalty, she shall not be further penalized for that breach.

■ **Rule 11, On the Same Tack, Overlapped**

APPEAL 2

When approaching the starting line to start, windward boats shall keep clear and shall not force their way between a leeward boat and a starting mark.

APPEAL 6

A hail of “starboard” by a boat does not change the respective rights or obligations of either a right-of-way boat or a keep-clear boat. A starboard-tack boat that tacks after a port-tack boat has borne away to pass astern of her does not necessarily break a rule.

APPEAL 14

A windward boat that overtakes a leeward boat so close to windward that the leeward boat cannot change course without immediately making contact does not keep clear, and breaks rule 11.

APPEAL 18

A boat is no longer subject to rule 13 after she reaches her new close-hauled course. If she then acquires right of way, she must initially give the other boat room to keep clear, at which time the keep-clear boat must begin to act to keep clear.

APPEAL 35

A leeward boat that changes course when approaching a starting mark may not compel the windward boat to make contact with the mark. A boat that is compelled to touch a mark by the actions of another boat breaking a rule of Part 2 is exonerated for breaking rule 31.

APPEAL 47

A boat intervening between a windward and a leeward boat is exonerated for breaking rule 11 when a boat to windward of her breaks rule 11 and thus prevents the intervening boat from keeping clear.

APPEAL 54

A leeward boat which establishes and maintains an overlap more than two boat lengths to leeward is not restricted to sailing no higher than her proper course.

APPEAL 56

A right-of-way boat clear ahead is an obstruction to boats clear astern. When an overlapped right-of-way boat chooses to pass to leeward of the obstruction, she shall give a boat overlapped to windward room to pass between her and the obstruction.

APPEAL 66

When protests occur in a group of boats in close proximity with each other, the protest committee should review the protest forms to see if the incidents may be closely related. If so, the committee may hear the protests at a single hearing with all parties present. When a boat breaking a rule has compelled another boat to break a rule, the other boat is exonerated.

APPEAL 111

A windward boat shall keep clear of a leeward boat. A leeward boat does not break rule 16.1 when she gives the windward boat room to keep clear when changing course.

■ Rule 12, On the Same Tack, Not Overlapped

APPEAL 49

When two boats are on the same tack and the boat that is clear ahead tacks, the boat that is tacking must keep clear.

APPEAL 70

When boats are overlapped at an obstruction, including an obstruction that is a right-of-way boat, the outside boat must give the inside boat room to pass between her and the obstruction.

APPEAL 90

Once a boat passes head to wind in the zone, rule 18.2(b) no longer applies. If a boat clear ahead passes head to wind and is then keeping clear, the boat astern may not change her course unless she gives the tacking boat room to keep clear. Thereafter, when the boat astern passes head to wind she shall herself keep clear of the boat ahead.

■ Rule 13, While Tacking

APPEAL 9

A boat is racing and remains subject to the rules of Part 2 until she has cleared the finishing line and finishing marks. She is subject to a penalty if she breaks a rule while racing, and may be disqualified under rule 23.1 if, after she clears the finishing line and marks, she interferes with a boat that is still racing.

APPEAL 18

A boat is no longer subject to rule 13 after she reaches her new close-hauled course. If she then acquires right of way, she must initially give the other boat room to keep clear, at which time the keep-clear boat must begin to act to keep clear.

APPEAL 49

When two boats are on the same tack and the boat that is clear ahead tacks, the boat that is tacking must keep clear.

APPEAL 51

A boat is on port or starboard tack corresponding to her windward side. A boat that inadvertently tacks onto port tack ahead of a starboard-tack boat cannot claim that she is an obstruction, to avoid breaking rule 10.

APPEAL 52

A starboard-tack boat need not anticipate that a port-tack boat will tack so close to her that the tacking boat will not give her room to keep clear when the tack is completed.

APPEAL 90

Once a boat passes head to wind in the zone, rule 18.2(b) no longer applies. If a boat clear ahead passes head to wind and is then keeping clear, the boat astern may not change her course unless she gives the tacking boat room to keep clear. Thereafter, when the boat astern passes head to wind she shall herself keep clear of the boat ahead.

APPEAL 104

Both the diagram and written facts are facts found by the PC. Neither takes precedence over the other. Rule R5 gives a national authority the authority to require the PC to provide revised or additional facts that resolve the conflict.

SECTION B – GENERAL LIMITATIONS

■ Rule 14, Avoiding Contact

APPEAL 2

When approaching the starting line to start, windward boats shall keep clear and shall not force their way between a leeward boat and a starting mark.

APPEAL 4

When a right-of-way boat touches a keep-clear boat that is not keeping clear, without causing damage or injury, she does not break rule 2, and she is exonerated for breaking rule 14.

APPEAL 6

A hail of “starboard” by a boat does not change the respective rights or obligations of either a right-of-way boat or a keep-clear boat. A starboard-tack boat that tacks after a port-tack boat has borne away to pass astern of her does not necessarily break a rule.

APPEAL 14

A windward boat that overtakes a leeward boat so close to windward that the leeward boat cannot change course without immediately making contact does not keep clear, and breaks rule 11.

APPEAL 18

A boat is no longer subject to rule 13 after she reaches her new close-hauled course. If she then acquires right of way, she must initially give the other boat room to keep clear, at which time the keep-clear boat must begin to act to keep clear.

APPEAL 31

A boat that is compelled to break a rule by the actions of a boat that was required to keep clear is exonerated.

APPEAL 39

When a right-of-way boat changes course, she shall give the other boat room to keep clear. Notwithstanding the proximity of a race committee boat, a boat may be subject to disqualification for failing to help another boat in danger.

APPEAL 40

A right-of-way boat is disqualified when she does not attempt to avoid contact and the contact causes damage. Penalty turns must be taken promptly, one after the other.

APPEAL 52

A starboard-tack boat need not anticipate that a port-tack boat will tack so close to her that the tacking boat will not give her room to keep clear when the tack is completed.

APPEAL 54

A leeward boat which establishes and maintains an overlap more than two boat lengths to leeward is not restricted to sailing no higher than her proper course.

APPEAL 55

A right-of-way boat must avoid contact with another boat whenever reasonably possible. When she has the opportunity to avoid a boat that has already begun to act to keep clear, but she changes course in a manner that does not give the keep-clear boat room to keep clear, she breaks rule 16. When such action makes contact inevitable, she also may be penalized under rule 14 if damage results.

APPEAL 71

Both right-of-way and keep-clear boats must keep a proper look out, particularly during the prestart. Both S and P are disqualified when S continually changes course towards P and P takes no action to avoid contact, causing damage.

APPEAL 75

A protest committee must arrive at a single set of facts in an incident.

APPEAL 90

Once a boat passes head to wind in the zone, rule 18.2(b) no longer applies. If a boat clear ahead passes head to wind and is then keeping clear, the boat astern may not change her course unless she gives the tacking boat room to keep clear. Thereafter, when the boat astern passes head to wind she shall herself keep clear of the boat ahead.

APPEAL 111

A windward boat shall keep clear of a leeward boat. A leeward boat does not break rule 16.1 when she gives the windward boat room to keep clear when changing course.

APPEAL 116

In gusty conditions, a starboard tack boat may sail her course with no need to take avoiding action, in expectation that a port tack boat that is keeping clear will continue to do so. A protest is upheld when a boat breaks a rule. If she has taken an appropriate penalty, she shall not be further penalized for that breach.

■ Rule 15, Acquiring Right of Way

APPEAL 6

A hail of “starboard” by a boat does not change the respective rights or obligations of either a right-of-way boat or a keep-clear boat. A starboard-tack boat that tacks after a port-tack boat has borne away to pass astern of her does not necessarily break a rule.

APPEAL 8

A boat’s proper course may not be the direct course to the next mark. A leeward boat subject to rule 17 may sail a higher course, if she would choose to sail that course in the absence of the windward boat.

APPEAL 18

A boat is no longer subject to rule 13 after she reaches her new close-hauled course. If she then acquires right of way, she must initially give the other boat room to keep clear, at which time the keep-clear boat must begin to act to keep clear.

APPEAL 38

A boat need not anticipate a change in right of way.

APPEAL 52

A starboard-tack boat need not anticipate that a port-tack boat will tack so close to her that the tacking boat will not give her room to keep clear when the tack is completed.

■ Rule 16, Changing Course

APPEAL 6

A hail of “starboard” by a boat does not change the respective rights or obligations of either a right-of-way boat or a keep-clear boat. A starboard-tack boat that tacks after a port-tack boat has borne away to pass astern of her does not necessarily break a rule.

■ Rule 16.1, Changing Course

APPEAL 14

A windward boat that overtakes a leeward boat so close to windward that the leeward boat cannot change course without immediately making contact does not keep clear, and breaks rule 11.

APPEAL 35

A leeward boat that changes course when approaching a starting mark may not compel the windward boat to make contact with the mark. A boat that is compelled to touch a mark by the actions of another boat breaking a rule of Part 2 is exonerated for breaking rule 31.

APPEAL 39

When a right-of-way boat changes course, she shall give the other boat room to keep clear. Notwithstanding the proximity of a race committee boat, a boat may be subject to disqualification for failing to help another boat in danger.

APPEAL 55

A right-of-way boat must avoid contact with another boat whenever reasonably possible. When she has the opportunity to avoid a boat that has already begun to act to keep clear, but she changes course in a manner that does not give the keep-clear boat room to keep clear, she breaks rule 16. When such action makes contact inevitable, she also may be penalized under rule 14 if damage results.

APPEAL 71

Both right-of-way and keep-clear boats must keep a proper look out, particularly during the prestart. Both S and P are disqualified when S continually changes course towards P and P takes no action to avoid contact, causing damage.

APPEAL 90

Once a boat passes head to wind in the zone, rule 18.2(b) no longer applies. If a boat clear ahead passes head to wind and is then keeping clear, the boat astern may not change her course unless she gives the tacking boat room to keep clear. Thereafter, when the boat astern passes head to wind she shall herself keep clear of the boat ahead.

APPEAL 111

A windward boat shall keep clear of a leeward boat. A leeward boat does not break rule 16.1 when she gives the windward boat room to keep clear when changing course.

■ **Rule 17, On the Same Tack; Proper Course**

APPEAL 8

A boat's proper course may not be the direct course to the next mark. A leeward boat subject to rule 17 may sail a higher course, if she would choose to sail that course in the absence of the windward boat.

APPEAL 39

When a right-of-way boat changes course, she shall give the other boat room to keep clear. Notwithstanding the proximity of a race committee boat, a boat may be subject to disqualification for failing to help another boat in danger.

APPEAL 50

Failure to handle a boat in a seamanlike way is not an excuse for breaking rule 18.4. When an inside overlapped right-of-way boat must gybe at a mark to sail her proper course, until she gybes she shall sail no farther from the mark than needed to sail that course.

APPEAL 54

A leeward boat which establishes and maintains an overlap more than two boat lengths to leeward is not restricted to sailing no higher than her proper course.

SECTION C – AT MARKS AND OBSTRUCTIONS

■ **Part 2, Section C Preamble**

APPEAL 2

When approaching the starting line to start, windward boats shall keep clear and shall not force their way between a leeward boat and a starting mark.

APPEAL 35

A leeward boat that changes course when approaching a starting mark may not compel the windward boat to make contact with the mark. A boat that is compelled to touch a mark by the actions of another boat breaking a rule of Part 2 is exonerated for breaking rule 31.

APPEAL 66

When protests occur in a group of boats in close proximity with each other, the protest committee should review the protest forms to see if the incidents may be closely related. If so, the committee may hear the protests at a single hearing with all parties present. When a boat breaking a rule has compelled another boat to break a rule, the other boat is exonerated.

■ **Rule 18.1, Mark-Room: When Rule 18 Applies**

APPEAL 49

When two boats are on the same tack and the boat that is clear ahead tacks, the boat that is tacking must keep clear.

■ **Rule 18.2(a), Mark-Room: Giving Mark-Room**

APPEAL 50

Failure to handle a boat in a seamanlike way is not an excuse for breaking rule 18.4. When an inside overlapped right-of-way boat must gybe at a mark to sail her proper course, until she gybes she shall sail no farther from the mark than needed to sail that course.

■ **Rule 18.2(b), Mark-Room: Giving Mark-Room**

APPEAL 12

Until an inside right-of-way boat reaches the point in rounding a mark where her proper course is to gybe, an outside overlapped boat must give mark-room. The inside right-of-way boat shall then sail no farther from the mark than needed to sail her proper course.

APPEAL 90

Once a boat passes head to wind in the zone, rule 18.2(b) no longer applies. If a boat clear ahead passes head to wind and is then keeping clear, the boat astern may not change her course unless she gives the tacking boat room to keep clear. Thereafter, when the boat astern passes head to wind she shall herself keep clear of the boat ahead.

APPEAL 105

When mark-room has been given, an inside overlapped boat on port tack is not exonerated for failing to keep clear of a boat on starboard tack. A boat that has not cleared the finishing line and marks is racing and subject to penalty if protested.

■ **Rule 18.2(d), Mark-Room: Giving Mark-Room**

APPEAL 90

Once a boat passes head to wind in the zone, rule 18.2(b) no longer applies. If a boat clear ahead passes head to wind and is then keeping clear, the boat astern may not change her course unless she gives the tacking boat room to keep clear. Thereafter, when the boat astern passes head to wind she shall herself keep clear of the boat ahead.

■ **Rule 18.4, Mark-Room: Gybing**

APPEAL 12

Until an inside right-of-way boat reaches the point in rounding a mark where her proper course is to gybe, an outside overlapped boat must give mark-room. The inside right-of-way boat shall then sail no farther from the mark than needed to sail her proper course.

APPEAL 50

Failure to handle a boat in a seamanlike way is not an excuse for breaking rule 18.4. When an inside overlapped right-of-way boat must gybe at a mark to sail her proper course, until she gybes she shall sail no farther from the mark than needed to sail that course.

■ Rule 19.2, Room to Pass an Obstruction: Giving Room at an Obstruction

APPEAL 36

Once an inside overlap at a continuing obstruction is established under rule 19.2(b), and until that overlap is broken, an inside boat retains her rights to room, regardless of any changes of course by the other boat.

APPEAL 56

A right-of-way boat clear ahead is an obstruction to boats clear astern. When an overlapped right-of-way boat chooses to pass to leeward of the obstruction, she shall give a boat overlapped to windward room to pass between her and the obstruction.

APPEAL 70

When boats are overlapped at an obstruction, including an obstruction that is a right-of-way boat, the outside boat must give the inside boat room to pass between her and the obstruction.

SECTION D – OTHER RULES

■ Rule 23.1, Interfering with Another Boat

APPEAL 9

A boat is racing and remains subject to the rules of Part 2 until she has cleared the finishing line and finishing marks. She is subject to a penalty if she breaks a rule while racing, and may be disqualified under rule 23.1 if, after she clears the finishing line and marks, she interferes with a boat that is still racing.

APPEAL 105

When mark-room has been given, an inside overlapped boat on port tack is not exonerated for failing to keep clear of a boat on starboard tack. A boat that has not cleared the finishing line and marks is racing and subject to penalty if protested.

PART 3 – CONDUCT OF A RACE

■ Rule 26, Starting Races

APPEAL 79

The visual and sound signals made by the race committee determine the starting times of a race, not the scheduled times published in the sailing instructions. A hearing is not required for the race committee to correct its error in scoring. Boats may request redress when they believe the race committee has acted improperly.

■ Rule 28.1, Sailing the Race

APPEAL 59

When the last leg of a shortened course passes by a mark that does not begin, bound or end that leg, that mark has no required side. A hearing that denies due process because of any procedural flaw is invalid.

APPEAL 74

Sailing instructions should be written and courses designated to ensure that there is clear distinction between rounding marks and passing marks. A protest hearing and decision must be limited to the particular incident that has been described in the protest.

APPEAL 87

A boat must sail a changed course when it is signalled by the race committee.

APPEAL 115

Parties to a protest who are denied the opportunity to question a witness are denied due process. When due process is denied, the protest committee must find some remedy. Reopening the hearing may be required to do this.

■ Rule 29.1, Recalls: Individual Recall

APPEAL 97

A race committee must monitor boats that have a starting penalty and record if they exonerate themselves by restarting correctly. When the evidence in a hearing is inconsistent, the protest committee shall weigh the evidence and make its decision based on a balance of probabilities unless the rule has a different standard of proof.

■ Rule 30.1, Starting Penalties: I Flag Rule

APPEAL 60

Oral instructions given at a competitors' meeting ashore have no authority unless they are published as written amendments to the sailing instructions.

APPEAL 97

A race committee must monitor boats that have a starting penalty and record if they exonerate themselves by restarting correctly. When the evidence in a hearing is inconsistent, the protest committee shall weigh the evidence and make its decision based on a balance of probabilities unless the rule has a different standard of proof.

■ Rule 31, Touching a Mark

APPEAL 35

A leeward boat that changes course when approaching a starting mark may not compel the windward boat to make contact with the mark. A boat that is compelled to touch a mark by the actions of another boat breaking a rule of Part 2 is exonerated for breaking rule 31.

APPEAL 112

When a boat has sailed the course and meets the definition Finish, a race committee shall score her in her finishing place. If a boat touches a mark at the finishing line the race committee may protest her for a breach of rule 31.

■ Rule 32, Shortening or Abandoning After the Start

APPEAL 59

When the last leg of a shortened course passes by a mark that does not begin, bound or end that leg, that mark has no required side. A hearing that denies due process because of any procedural flaw is invalid.

■ Rule 32.1, Shortening or Abandoning after the Start

APPEAL 48

A race may not be abandoned after one boat has finished, without considering the consequences to all other boats in the race.

■ Rule 33, Changing the Next Leg of the Course

APPEAL 87

A boat must sail a changed course when it is signalled by the race committee.

■ Rule 35, Race Time Limit and Scores

APPEAL 42

A protest committee shall interpret defective sailing instructions in the most equitable manner for all boats competing.

PART 4 – OTHER REQUIREMENTS WHEN RACING

SECTION A – GENERAL REQUIREMENTS

■ Rule 41, Outside Help

APPEAL 76

Radio communications do not necessarily constitute outside help, but a boat which engages in them risks breaking rule 41.

■ Rule 42.1, Propulsion: Basic Rule

APPEAL 68

When running an engine to charge batteries is permitted by the notice of race or sailing instructions, a boat must take positive action to prevent her propeller from turning.

■ Rule 42.2, Propulsion: Prohibited Actions

APPEAL 110

Ooching: sudden forward body movements, stopped abruptly, is a prohibited action, even when passing over the waves generated by a passing vessel.

■ Rule 43.1(a), Exoneration

APPEAL 31

A boat that is compelled to break a rule by the actions of a boat that was required to keep clear is exonerated.

APPEAL 35

A leeward boat that changes course when approaching a starting mark may not compel the windward boat to make contact with the mark. A boat that is compelled to touch a mark by the actions of another boat breaking a rule of Part 2 is exonerated for breaking rule 31.

APPEAL 47

A boat intervening between a windward and a leeward boat is exonerated for breaking rule 11 when a boat to windward of her breaks rule 11 and thus prevents the intervening boat from keeping clear.

APPEAL 66

When protests occur in a group of boats in close proximity with each other, the protest committee should review the protest forms to see if the incidents may be closely related. If so, the committee may hear the protests at a single hearing with all parties present. When a boat breaking a rule has compelled another boat to break a rule, the other boat is exonerated.

APPEAL 70

When boats are overlapped at an obstruction, including an obstruction that is a right-of-way boat, the outside boat must give the inside boat room to pass between her and the obstruction.

■ Rule 43.1(b), Exoneration

APPEAL 36

Once an inside overlap at a continuing obstruction is established under rule 19.2(b), and until that overlap is broken, an inside boat retains her rights to room, regardless of any changes of course by the other boat.

APPEAL 56

A right-of-way boat clear ahead is an obstruction to boats clear astern. When an overlapped right-of-way boat chooses to pass to leeward of the obstruction, she shall give a boat overlapped to windward room to pass between her and the obstruction.

APPEAL 105

When mark-room has been given, an inside overlapped boat on port tack is not exonerated for failing to keep clear of a boat on starboard tack. A boat that has not cleared the finishing line and marks is racing and subject to penalty if protested.

■ **Rule 43.1(c), Exoneration**

APPEAL 4

When a right-of-way boat touches a keep-clear boat that is not keeping clear, without causing damage or injury, she does not break rule 2, and she is exonerated for breaking rule 14.

APPEAL 6

A hail of “starboard” by a boat does not change the respective rights or obligations of either a right-of-way boat or a keep-clear boat. A starboard-tack boat that tacks after a port-tack boat has borne away to pass astern of her does not necessarily break a rule.

APPEAL 14

A windward boat that overtakes a leeward boat so close to windward that the leeward boat cannot change course without immediately making contact does not keep clear, and breaks rule 11.

APPEAL 54

A leeward boat which establishes and maintains an overlap more than two boat lengths to leeward is not restricted to sailing no higher than her proper course.

■ **Rule 44.1, Penalties at the Time of an Incident: Taking a Penalty**

APPEAL 24

A boat that breaks a rule of Part 2 and causes serious damage to another boat must not only retire, but must also stand by to give all possible help to the endangered boat, even without a request to do so.

■ **Rule 44.2, Penalties at the Time of an Incident: One-Turn and Two-Turns Penalties**

APPEAL 40

A right-of-way boat is disqualified when she does not attempt to avoid contact and the contact causes damage. Penalty turns must be taken promptly, one after the other.

PART 5 – PROTESTS, REDRESS, HEARINGS, MISCONDUCT AND APPEALS

SECTION A – PROTESTS; REDRESS; RULE 69 ACTION

■ **Rule 60.1, Right to Protest; Right to Request Redress or Rule 69 Action**

APPEAL 11

A boat that breaks a rule while racing but continues to race may protest over a later incident, even though she is disqualified in the first incident.

APPEAL 19

A boat greater than 6 metres in length intending to protest because of an incident in the racing area that she saw shall hail “protest” and conspicuously display a red flag at the first reasonable opportunity for each.

■ **Rule 60.2, Right to Protest; Right to Request Redress or Rule 69 Action**

APPEAL 112

When a boat has sailed the course and meets the definition Finish, a race committee shall score her in her finishing place. If a boat touches a mark at the finishing line the race committee may protest her for a breach of rule 31.

■ Rule 60.3, Right to Protest; Right to Request Redress or Rule 69 Action

APPEAL 44

A boat may appeal a decision of a protest committee only when she was a party to the hearing. A boat that decides not to start or not to continue in a race because of an apparently incorrect action by the race committee is not entitled to redress because her own action made her score significantly worse.

APPEAL 107

If a protest is found to be invalid, the hearing shall be closed. A PC shall consider whether a request to reopen a hearing has met the requirements for a reopening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.

■ Rule 61.1, Protest Requirements: Informing the Protestee

APPEAL 15

A boat intending to protest must hail “protest” at the first reasonable opportunity, but failure of her hail to be heard does not invalidate her protest. The fact that a protestee did not know she was being protested is not, by itself, grounds for not hearing a protest. If a party to the hearing does not attend the hearing, the protest committee may nevertheless decide the protest. If the party was unavoidably absent, the committee may reopen the hearing.

APPEAL 19

A boat greater than 6 metres in length intending to protest because of an incident in the racing area that she saw shall hail “protest” and conspicuously display a red flag at the first reasonable opportunity for each.

APPEAL 59

When the last leg of a shortened course passes by a mark that does not begin, bound or end that leg, that mark has no required side. A hearing that denies due process because of any procedural flaw is invalid.

APPEAL 63

For boats greater in length than 6 metres, a protest flag must be perceived to be a flag. The flag must be displayed at the first reasonable opportunity. For a fully-crewed boat, compelling evidence would be required to justify display within minutes, rather than seconds of an incident. Failure to meet these requirements will render a protest invalid.

APPEAL 88

A boat with multiple crew is not relieved from the requirement to display a protest flag as soon as reasonably possible if a problem aboard does not put the boat and its crew in danger.

APPEAL 103

A protest flag shall be displayed at the first reasonable opportunity. Neither the proximity of other boats nor sailing short-handed provides relief from this requirement.

APPEAL 106

A short-handed crew is not relieved of the responsibility to hail protest and display a red flag at the first reasonable opportunity for each. Parties to a hearing have the right to be present if a protest committee reconvenes to take new evidence or to provide new written facts or diagram. World Sailing Cases are binding as authoritative interpretations of the rules. MNA appeals decisions are not authoritative, but they may provide guidance. The appeals of one MNA do not have more importance than those of another.

APPEAL 107

If a protest is found to be invalid, the hearing shall be closed. A PC shall consider whether a request to reopen a hearing has met the requirements for a reopening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.

APPEAL 114

A boat intending to protest must display a protest flag at the first reasonable opportunity. An incident that results in damage that is not obviously serious to the protesting boat at the time of the incident does not relieve the boat of this obligation.

■ **Rule 61.3, Protest Requirements: Protest Time Limit**

APPEAL 45

A protest committee may extend the protest time limit when the protestor is not aware of the facts justifying the protest until after the race. Class restrictions on eligibility of a helmsman for certain class-sanctioned events apply only to those specific events. They do not apply to other open events since they are not class rules.

■ **Rule 62.1(a), Redress**

APPEAL 33

When conducting a race, the race committee must satisfy both the visual and sound signal requirements of the race signals section of the rules.

APPEAL 41

The shifting of a rounding mark due to inclement weather is not necessarily grounds for redress.

APPEAL 42

A protest committee shall interpret defective sailing instructions in the most equitable manner for all boats competing.

APPEAL 44

A boat may appeal a decision of a protest committee only when she was a party to the hearing. A boat that decides not to start or not to continue in a race because of an apparently incorrect action by the race committee is not entitled to redress because her own action made her score significantly worse.

APPEAL 48

A race may not be abandoned after one boat has finished, without considering the consequences to all other boats in the race.

APPEAL 57

A boat must finish in accordance with the definition. Competitors who have retired from the series may participate on the protest committee. They no longer have a conflict of interest because they have nothing to gain or lose by a protest committee's decision.

APPEAL 59

When the last leg of a shortened course passes by a mark that does not begin, bound or end that leg, that mark has no required side. A hearing that denies due process because of any procedural flaw is invalid.

APPEAL 60

Oral instructions given at a competitors' meeting ashore have no authority unless they are published as written amendments to the sailing instructions.

APPEAL 69

When a protest committee has doubt in a measurement matter and refers it to the qualified authority for an interpretation, it shall be bound by the reply of the authority, even if the protest committee considers the interpretation to be unfair.

APPEAL 72

Unless provision is made in the notice of race or sailing instructions, breakdown of a chartered boat does not provide grounds for consideration of redress.

APPEAL 74

Sailing instructions should be written and courses designated to ensure that there is clear distinction between rounding marks and passing marks. A protest hearing and decision must be limited to the particular incident that has been described in the protest.

APPEAL 79

The visual and sound signals made by the race committee determine the starting times of a race, not the scheduled times published in the sailing instructions. A hearing is not required for the race committee to correct its error in scoring. Boats may request redress when they believe the race committee has acted improperly.

APPEAL 87

A boat must sail a changed course when it is signalled by the race committee.

APPEAL 97

A race committee must monitor boats that have a starting penalty and record if they exonerate themselves by restarting correctly. When the evidence in a hearing is inconsistent, the protest committee shall weigh the evidence and make its decision based on a balance of probabilities unless the rule has a different standard of proof.

■ Rule 62.1(d), Redress

APPEAL 109

A boat that cannot be identified although it may have broken a rule, cannot be penalized. A fact that is found on the weight of evidence may not be appealed. Redress under rule 62.1(d) may be given only when a boat has been penalized or a member of her crew has been subject to disciplinary action with respect to the incident.

■ Rule 62.2, Redress

APPEAL 60

Oral instructions given at a competitors' meeting ashore have no authority unless they are published as written amendments to the sailing instructions.

SECTION B – HEARINGS AND DECISIONS

■ Rule 63, Hearings

APPEAL 112

When a boat has sailed the course and meets the definition Finish, a race committee shall score her in her finishing place. If a boat touches a mark at the finishing line the race committee may protest her for a breach of rule 31.

■ Rule 63.1, Hearings: Requirement for a Hearing

APPEAL 19

A boat greater than 6 metres in length intending to protest because of an incident in the racing area that she saw shall hail "protest" and conspicuously display a red flag at the first reasonable opportunity for each.

APPEAL 60

Oral instructions given at a competitors' meeting ashore have no authority unless they are published as written amendments to the sailing instructions.

APPEAL 74

Sailing instructions should be written and courses designated to ensure that there is clear distinction between rounding marks and passing marks. A protest hearing and decision must be limited to the particular incident that has been described in the protest.

APPEAL 79

The visual and sound signals made by the race committee determine the starting times of a race, not the scheduled times published in the sailing instructions. A hearing is not required for the race committee to correct its error in scoring. Boats may request redress when they believe the race committee has acted improperly.

■ **Rule 63.2, Hearings: Time and Place of the Hearing; Time for Parties to Prepare**

APPEAL 15

A boat intending to protest must hail “protest” at the first reasonable opportunity, but failure of her hail to be heard does not invalidate her protest. The fact that a protestee did not know she was being protested is not, by itself, grounds for not hearing a protest. If a party to the hearing does not attend the hearing, the protest committee may nevertheless decide the protest. If the party was unavoidably absent, the committee may reopen the hearing.

APPEAL 28

Failure to follow the procedures of rule 63 may render a protest committee’s decisions invalid. A protest committee may conduct a hearing in the absence of a party who has been informed of the time of the hearing but does not attend.

APPEAL 59

When the last leg of a shortened course passes by a mark that does not begin, bound or end that leg, that mark has no required side. A hearing that denies due process because of any procedural flaw is invalid.

APPEAL 66

When protests occur in a group of boats in close proximity with each other, the protest committee should review the protest forms to see if the incidents may be closely related. If so, the committee may hear the protests at a single hearing with all parties present. When a boat breaking a rule has compelled another boat to break a rule, the other boat is exonerated.

APPEAL 99

A protest committee may proceed with a hearing if a party to the hearing is not present, providing that the parties have been properly notified of the time and place of the hearing. A hearing may be reopened if new evidence becomes available within a reasonable time. The evidence that would have been given by a party that failed to attend the hearing does not qualify as new evidence.

■ **Rule 63.3, Hearings: Right to Be Present**

APPEAL 15

A boat intending to protest must hail “protest” at the first reasonable opportunity, but failure of her hail to be heard does not invalidate her protest. The fact that a protestee did not know she was being protested is not, by itself, grounds for not hearing a protest. If a party to the hearing does not attend the hearing, the protest committee may nevertheless decide the protest. If the party was unavoidably absent, the committee may reopen the hearing.

APPEAL 28

Failure to follow the procedures of rule 63 may render a protest committee’s decisions invalid. A protest committee may conduct a hearing in the absence of a party who has been informed of the time of the hearing but does not attend.

APPEAL 99

A protest committee may proceed with a hearing if a party to the hearing is not present, providing that the parties have been properly notified of the time and place of the hearing. A hearing may be reopened if new evidence becomes available within a reasonable time. The evidence that would have been given by a party that failed to attend the hearing does not qualify as new evidence.

APPEAL 106

A short-handed crew is not relieved of the responsibility to hail protest and display a red flag at the first reasonable opportunity for each. Parties to a hearing have the right to be present if a protest committee reconvenes to take new evidence or to provide new written facts or diagram. World Sailing Cases are binding as authoritative interpretations of the rules. MNA appeals decisions are not authoritative, but they may provide guidance. The appeals of one MNA do not have more importance than those of another.

■ **Rule 63.4, Hearings: Conflict of Interest**

APPEAL 57

A boat must finish in accordance with the definition. Competitors who have retired from the series may participate on the protest committee. They no longer have a conflict of interest because they have nothing to gain or lose by a protest committee's decision.

■ **Rule 63.5, Hearings: Validity of the Protest or Request for Redress**

APPEAL 19

A boat greater than 6 metres in length intending to protest because of an incident in the racing area that she saw shall hail "protest" and conspicuously display a red flag at the first reasonable opportunity for each.

APPEAL 63

For boats greater in length than 6 metres, a protest flag must be perceived to be a flag. The flag must be displayed at the first reasonable opportunity. For a fully-crewed boat, compelling evidence would be required to justify display within minutes, rather than seconds of an incident. Failure to meet these requirements will render a protest invalid.

APPEAL 103

A protest flag shall be displayed at the first reasonable opportunity. Neither the proximity of other boats nor sailing short-handed provides relief from this requirement.

APPEAL 107

If a protest is found to be invalid, the hearing shall be closed. A PC shall consider whether a request to reopen a hearing has met the requirements for a reopening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.

APPEAL 114

A boat intending to protest must display a protest flag at the first reasonable opportunity. An incident that results in damage that is not obviously serious to the protesting boat at the time of the incident does not relieve the boat of this obligation.

■ **Rule 63.6, Hearings: Taking Evidence and Finding Facts**

APPEAL 16

Only one valid protest is needed to require a protest committee to hold a hearing on an incident. It is the responsibility of the protest committee, however difficult this may be, to give the weight it considers appropriate to the evidence presented, and make a decision on what facts apply.

APPEAL 28

Failure to follow the procedures of rule 63 may render a protest committee's decisions invalid. A protest committee may conduct a hearing in the absence of a party who has been informed of the time of the hearing but does not attend.

APPEAL 30

Rules shall not be changed unless permitted in the rule itself or as in rule 86.1. Oral instructions shall not change rules unless permitted by the sailing instructions. A protest committee may not deny the right to call witnesses.

APPEAL 59

When the last leg of a shortened course passes by a mark that does not begin, bound or end that leg, that mark has no required side. A hearing that denies due process because of any procedural flaw is invalid.

APPEAL 75

A protest committee must arrive at a single set of facts in an incident.

APPEAL 97

A race committee must monitor boats that have a starting penalty and record if they exonerate themselves by restarting correctly. When the evidence in a hearing is inconsistent, the protest committee shall weigh

the evidence and make its decision based on a balance of probabilities unless the rule has a different standard of proof.

APPEAL 106

A short-handed crew is not relieved of the responsibility to hail protest and display a red flag at the first reasonable opportunity for each. Parties to a hearing have the right to be present if a protest committee reconvenes to take new evidence or to provide new written facts or diagram. World Sailing Cases are binding as authoritative interpretations of the rules. MNA appeals decisions are not authoritative, but they may provide guidance. The appeals of one MNA do not have more importance than those of another.

APPEAL 109

A boat that cannot be identified although it may have broken a rule, cannot be penalized. A fact that is found on the weight of evidence may not be appealed. Redress under rule 62.1(d) may be given only when a boat has been penalized or a member of her crew has been subject to disciplinary action with respect to the incident.

APPEAL 115

Parties to a protest who are denied the opportunity to question a witness are denied due process. When due process is denied, the protest committee must find some remedy. Reopening the hearing may be required to do this.

■ Rule 63.7, Hearings: Conflict Between Rules

APPEAL 108

When the scoring provisions of rule A2 are changed, the organizing authority and race committee must write the notice of race and sailing instructions to avoid a conflict between documents. Should a conflict occur, the organizing authority or the race committee must address it by means of a timely amendment.

■ Rule 64.1, Decisions: Standard of Proof, Majority Decisions and Reclassifying Requests

APPEAL 16

Only one valid protest is needed to require a protest committee to hold a hearing on an incident. It is the responsibility of the protest committee, however difficult this may be, to give the weight it considers appropriate to the evidence presented, and make a decision on what facts apply.

APPEAL 57

A boat must finish in accordance with the definition. Competitors who have retired from the series may participate on the protest committee. They no longer have a conflict of interest because they have nothing to gain or lose by a protest committee's decision.

APPEAL 97

A race committee must monitor boats that have a starting penalty and record if they exonerate themselves by restarting correctly. When the evidence in a hearing is inconsistent, the protest committee shall weigh the evidence and make its decision based on a balance of probabilities unless the rule has a different standard of proof.

APPEAL 109

A boat that cannot be identified although it may have broken a rule, cannot be penalized. A fact that is found on the weight of evidence may not be appealed. Redress under rule 62.1(d) may be given only when a boat has been penalized or a member of her crew has been subject to disciplinary action with respect to the incident.

■ Rule 64.2, Decisions: Penalties

APPEAL 18

A boat is no longer subject to rule 13 after she reaches her new close-hauled course. If she then acquires right of way, she must initially give the other boat room to keep clear, at which time the keep-clear boat must begin to act to keep clear.

APPEAL 116

In gusty conditions, a starboard tack boat may sail her course with no need to take avoiding action, in expectation that a port tack boat that is keeping clear will continue to do so. A protest is upheld when a boat breaks a rule. If she has taken an appropriate penalty, she shall not be further penalized for that breach.

■ **Rule 64.3, Decisions: Decisions on Redress**

APPEAL 21

Boats shall sail the course prescribed by the sailing instructions but, whatever may be implied from the sailing instructions, they shall finish in accordance with the definition Finish.

APPEAL 33

When conducting a race, the race committee must satisfy both the visual and sound signal requirements of the race signals section of the rules.

APPEAL 42

A protest committee shall interpret defective sailing instructions in the most equitable manner for all boats competing.

APPEAL 44

A boat may appeal a decision of a protest committee only when she was a party to the hearing. A boat that decides not to start or not to continue in a race because of an apparently incorrect action by the race committee is not entitled to redress because her own action made her score significantly worse.

APPEAL 48

A race may not be abandoned after one boat has finished, without considering the consequences to all other boats in the race.

APPEAL 60

Oral instructions given at a competitors' meeting ashore have no authority unless they are published as written amendments to the sailing instructions.

APPEAL 74

Sailing instructions should be written and courses designated to ensure that there is clear distinction between rounding marks and passing marks. A protest hearing and decision must be limited to the particular incident that has been described in the protest.

■ **Rule 64.4, Decisions: Decisions on Protests Concerning Class Rules**

APPEAL 20

A boat's owner shall ensure that the boat is maintained to comply with her class rules, and that her measurement or rating certificate, if any, remains valid.

APPEAL 65

When a protest committee is in doubt about the meaning of a measurement rule and refers its question to the authority responsible for interpreting the rule, it shall be bound by the reply of the authority.

APPEAL 69

When a protest committee has doubt in a measurement matter and refers it to the qualified authority for an interpretation, it shall be bound by the reply of the authority, even if the protest committee considers the interpretation to be unfair.

APPEAL 95

A matter may not be referred to a national authority for appeal unless it has been the subject of a protest hearing in which the appellant was a party. Administrative appeals within the context of class rules or a measurement or performance handicap system, are within the purview of the organization issuing the certificate.

■ Rule 65.1, Informing the Parties and Others

APPEAL 16

Only one valid protest is needed to require a protest committee to hold a hearing on an incident. It is the responsibility of the protest committee, however difficult this may be, to give the weight it considers appropriate to the evidence presented, and make a decision on what facts apply.

■ Rule 65.2, Informing the Parties and Others

APPEAL 107

If a protest is found to be invalid, the hearing shall be closed. A PC shall consider whether a request to reopen a hearing has met the requirements for a reopening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.

■ Rule 66, Reopening a Hearing

APPEAL 82

An interpretation of the starting area.

■ Rule 66.2, Reopening a Hearing

APPEAL 99

A protest committee may proceed with a hearing if a party to the hearing is not present, providing that the parties have been properly notified of the time and place of the hearing. A hearing may be reopened if new evidence becomes available within a reasonable time. The evidence that would have been given by a party that failed to attend the hearing does not qualify as new evidence.

APPEAL 107

If a protest is found to be invalid, the hearing shall be closed. A PC shall consider whether a request to reopen a hearing has met the requirements for a reopening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.

SECTION C – MISCONDUCT

■ Rule 69, Misconduct

APPEAL 102

The Racing Rules of Sailing apply to boats that participate in a race. A competitor who commits breaches of good manners or sportsmanship or both over a protracted period commits misconduct. The jurisdiction of the protest committee is limited to the race or series to which it is appointed.

■ Rule 69.1, Misconduct: Obligation Not to Commit Misconduct; Resolution

APPEAL 58

A competitor who moves a mark commits an act of misconduct, regardless of his intent.

■ Rule 69.2, Misconduct: Action by a Protest Committee

APPEAL 58

A competitor who moves a mark commits an act of misconduct, regardless of his intent.

SECTION D – APPEALS

■ Rule 70.1, Appeals and Requests to a National Authority

APPEAL 23

Sailing instructions do not permit the protest committee to deny the right of appeal unless the requirements of rule 70.5 have been met.

APPEAL 44

A boat may appeal a decision of a protest committee only when she was a party to the hearing. A boat that decides not to start or not to continue in a race because of an apparently incorrect action by the race committee is not entitled to redress because her own action made her score significantly worse.

APPEAL 57

A boat must finish in accordance with the definition. Competitors who have retired from the series may participate on the protest committee. They no longer have a conflict of interest because they have nothing to gain or lose by a protest committee's decision.

APPEAL 69

When a protest committee has doubt in a measurement matter and refers it to the qualified authority for an interpretation, it shall be bound by the reply of the authority, even if the protest committee considers the interpretation to be unfair.

APPEAL 95

A matter may not be referred to a national authority for appeal unless it has been the subject of a protest hearing in which the appellant was a party. Administrative appeals within the context of class rules or a measurement or performance handicap system, are within the purview of the organization issuing the certificate.

■ **Rule 70.2, Appeals and Requests to a National Authority**

APPEAL 79

The visual and sound signals made by the race committee determine the starting times of a race, not the scheduled times published in the sailing instructions. A hearing is not required for the race committee to correct its error in scoring. Boats may request redress when they believe the race committee has acted improperly.

■ **Rule 70.4, Appeals and Requests to a National Authority**

APPEAL 117

When races are conducted by an organizing authority affiliated with the member national authority of the venue, *The Racing Rules of Sailing* may be used, including any right of appeal to the national authority of decisions of the protest committee.

■ **Rule 70.5, Appeals and Requests to a National Authority**

APPEAL 23

Sailing instructions do not permit the protest committee to deny the right of appeal unless the requirements of rule 70.5 have been met.

■ **Rule 71.2, National Authority Decisions**

APPEAL 30

Rules shall not be changed unless permitted in the rule itself or as in rule 86.1. Oral instructions shall not change rules unless permitted by the sailing instructions. A protest committee may not deny the right to call witnesses.

PART 6 – ENTRY AND QUALIFICATION

■ **Rule 75, Entering an Event**

APPEAL 117

When races are conducted by an organizing authority affiliated with the member national authority of the venue, *The Racing Rules of Sailing* may be used, including any right of appeal to the national authority of decisions of the protest committee.

■ **Rule 76, Exclusion of Boats or Competitors**

APPEAL 102

The Racing Rules of Sailing apply to boats that participate in a race. A competitor who commits breaches of good manners or sportsmanship or both over a protracted period commits misconduct. The jurisdiction of the protest committee is limited to the race or series to which it is appointed.

■ **Rule 78.1, Compliance with Class Rules; Certificates**

APPEAL 20

A boat's owner shall ensure that the boat is maintained to comply with her class rules, and that her measurement or rating certificate, if any, remains valid.

APPEAL 65

When a protest committee is in doubt about the meaning of a measurement rule and refers its question to the authority responsible for interpreting the rule, it shall be bound by the reply of the authority.

PART 7 – RACE ORGANIZATION

■ **Rule 86.1, Changes to the Racing Rules**

APPEAL 21

Boats shall sail the course prescribed by the sailing instructions but, whatever may be implied from the sailing instructions, they shall finish in accordance with the definition Finish.

APPEAL 30

Rules shall not be changed unless permitted in the rule itself or as in rule 86.1. Oral instructions shall not change rules unless permitted by the sailing instructions. A protest committee may not deny the right to call witnesses.

APPEAL 117

When races are conducted by an organizing authority affiliated with the member national authority of the venue, *The Racing Rules of Sailing* may be used, including any right of appeal to the national authority of decisions of the protest committee.

■ **Rule 90.2, Race Committee; Sailing Instructions; Scoring: Sailing Instructions**

APPEAL 30

Rules shall not be changed unless permitted in the rule itself or as in rule 86.1. Oral instructions shall not change rules unless permitted by the sailing instructions. A protest committee may not deny the right to call witnesses.

APPEAL 60

Oral instructions given at a competitors' meeting ashore have no authority unless they are published as written amendments to the sailing instructions.

■ **Rule 90.3, Race Committee; Sailing Instructions; Scoring: Scoring**

APPEAL 79

The visual and sound signals made by the race committee determine the starting times of a race, not the scheduled times published in the sailing instructions. A hearing is not required for the race committee to correct its error in scoring. Boats may request redress when they believe the race committee has acted improperly.

APPEAL 108

When the scoring provisions of rule A2 are changed, the organizing authority and race committee must write the notice of race and sailing instructions to avoid a conflict between documents. Should a conflict occur, the organizing authority or the race committee must address it by means of a timely amendment.

APPENDIX A – SCORING

■ Rule A2, Series Scores

APPEAL 108

When the scoring provisions of rule A2 are changed, the organizing authority and race committee must write the notice of race and sailing instructions to avoid a conflict between documents. Should a conflict occur, the organizing authority or the race committee must address it by means of a timely amendment.

■ Rule A5, Scores Determined by the Race Committee

APPEAL 112

When a boat has sailed the course and meets the definition Finish, a race committee shall score her in her finishing place. If a boat touches a mark at the finishing line the race committee may protest her for a breach of rule 31.

■ Rule A5.1, Scores Determined by the Race Committee

APPEAL 60

Oral instructions given at a competitors' meeting ashore have no authority unless they are published as written amendments to the sailing instructions.

APPEAL 74

Sailing instructions should be written and courses designated to ensure that there is clear distinction between rounding marks and passing marks. A protest hearing and decision must be limited to the particular incident that has been described in the protest.

APPEAL 79

The visual and sound signals made by the race committee determine the starting times of a race, not the scheduled times published in the sailing instructions. A hearing is not required for the race committee to correct its error in scoring. Boats may request redress when they believe the race committee has acted improperly.

APPENDIX J – NOTICE OF RACE AND SAILING INSTRUCTIONS

■ Rule J1.3, Notice of Race Contents

APPEAL 108

When the scoring provisions of rule A2 are changed, the organizing authority and race committee must write the notice of race and sailing instructions to avoid a conflict between documents. Should a conflict occur, the organizing authority or the race committee must address it by means of a timely amendment.

APPENDIX M – RECOMMENDATIONS FOR PROTEST COMMITTEES

■ Appendix M, Recommendations for Protest Committees

APPEAL 59

When the last leg of a shortened course passes by a mark that does not begin, bound or end that leg, that mark has no required side. A hearing that denies due process because of any procedural flaw is invalid.

■ Rule M4.2, Reopening a Hearing (rule 66)

APPEAL 99

A protest committee may proceed with a hearing if a party to the hearing is not present, providing that the parties have been properly notified of the time and place of the hearing. A hearing may be reopened if new evidence becomes available within a reasonable time. The evidence that would have been given by a party that failed to attend the hearing does not qualify as new evidence.

APPENDIX R – PROCEDURES FOR APPEALS AND REQUESTS

■ Sail Canada Prescription to Appendix R, Procedures for Appeals and Requests

APPEAL 106

A short-handed crew is not relieved of the responsibility to hail protest and display a red flag at the first reasonable opportunity for each. Parties to a hearing have the right to be present if a protest committee reconvenes to take new evidence or to provide new written facts or diagram. World Sailing Cases are binding as authoritative interpretations of the rules. MNA appeals decisions are not authoritative, but they may provide guidance. The appeals of one MNA do not have more importance than those of another.

■ Rule R2.1, Submission of Documents

APPEAL 107

If a protest is found to be invalid, the hearing shall be closed. A PC shall consider whether a request to reopen a hearing has met the requirements for a reopening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.

■ Rule R5, Inadequate Facts; Reopening

APPEAL 16

Only one valid protest is needed to require a protest committee to hold a hearing on an incident. It is the responsibility of the protest committee, however difficult this may be, to give the weight it considers appropriate to the evidence presented, and make a decision on what facts apply.

APPEAL 54

A leeward boat which establishes and maintains an overlap more than two boat lengths to leeward is not restricted to sailing no higher than her proper course.

APPEAL 82

An interpretation of the starting area.

APPEAL 104

Both the diagram and written facts are facts found by the PC. Neither takes precedence over the other. Rule R5 gives a national authority the authority to require the PC to provide revised or additional facts that resolve the conflict.

APPEAL 106

A short-handed crew is not relieved of the responsibility to hail protest and display a red flag at the first reasonable opportunity for each. Parties to a hearing have the right to be present if a protest committee reconvenes to take new evidence or to provide new written facts or diagram. World Sailing Cases are binding as authoritative interpretations of the rules. MNA appeals decisions are not authoritative, but they may provide guidance. The appeals of one MNA do not have more importance than those of another.

APPEAL 111

A windward boat shall keep clear of a leeward boat. A leeward boat does not break rule 16.1 when she gives the windward boat room to keep clear when changing course.

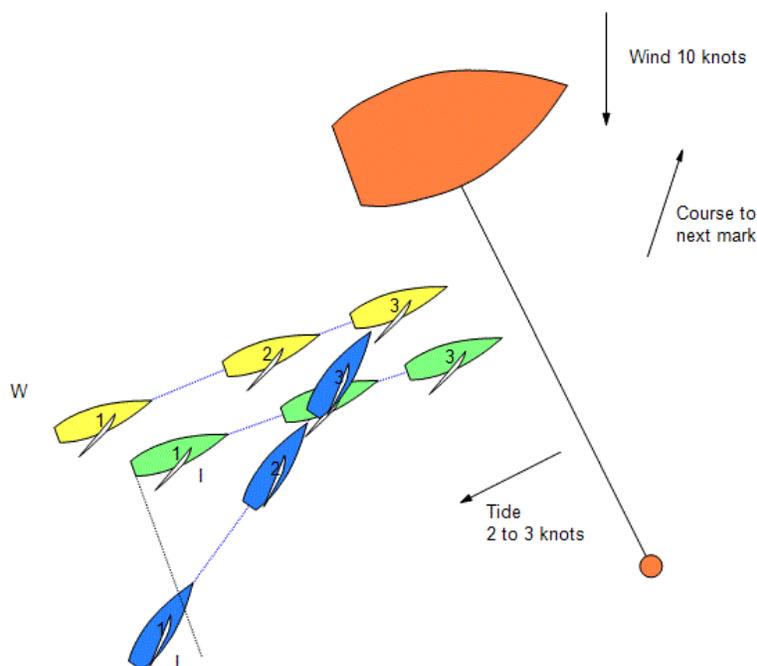
SECTION 2: SAIL CANADA APPEALS

APPEAL 1 DELETED (in 2013)

APPEAL 2

Rule 11, On the Same Tack, Overlapped
Rule 14, Avoiding Contact
Part 2, Section C Preamble, At Marks and Obstructions

When approaching the starting line to start, windward boats shall keep clear and shall not force their way between a leeward boat and a starting mark.



Summary of the Facts

In the minute before the starting signal, three boats, L, I and W were approaching the starting line to start. There was a tide setting across the line and the boats were approaching the line at between two and three knots. L had been holding a steady converging course from much more than two boat lengths to leeward of I and W. I and W were sailing courses parallel to the mark (RC vessel) which was 85 feet (26 m) long.

The boats were overlapped before I and W reached the RC vessel and L repeatedly hailed both boats to keep clear. Neither I nor W made any attempt to keep clear but held their courses until they became overlapped inside the RC vessel. At position 2, I's crew fended off L's bow so that they could pass ahead of her and cross the starting line. W's crew then did the same. There was no damage. L protested both boats under rule 11.

The protest committee considered that rule 11 ceased to apply when W and I became overlapped with the RC vessel and that W and I were entitled to room under rule 19.2(b) because the RC vessel was also an obstruction. The protest committee dismissed the protest and disqualified L under rule 14 for not avoiding contact. L appealed.

Decision

All three boats were approaching the starting line to start. The preamble to the rules of Part 2 Section C makes it clear that, in these circumstances, rules 18, 19 and 20 do not apply and neither I nor W were entitled to mark-room. The fact that I and W did not keep clear, but chose to sail between the RC vessel and L, does not relieve them of their obligation to keep clear of L. L had been the right-of-way boat for more than a minute so that I and W had been initially given plenty of room to keep clear. L did not therefore break rule 15. Both I and W could easily have luffed to windward of the RC vessel to keep clear but they made no attempt to do so. Both I and W therefore broke rule 11 and are disqualified.

At positions 2 and 3, L could have borne away to avoid contact first with I and, subsequently, with W. L broke rule 14, but since she held right of way over I and W and there was no damage or injury, she was exonerated by rule 43.1(c).

L's appeal is upheld. L is reinstated in her finishing place and I and W are disqualified.

1963

APPEAL 3

DELETED (in 2021)

APPEAL 4

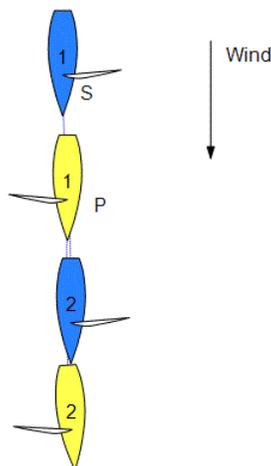
Rule 2, Fair Sailing

Rule 10, On Opposite Tacks

Rule 14, Avoiding Contact

Rule 43.1(c), Exoneration

When a right-of-way boat touches a keep-clear boat that is not keeping clear, without causing damage or injury, she does not break rule 2, and she is exonerated for breaking rule 14.



Summary of the Facts

On a run in a light wind, S overtook P from clear astern. S hailed “starboard” twice in time to allow P to alter course to keep clear. P did not alter course and S held her course. Contact occurred between the bow of S and the stern of P with no damage resulting. The protest committee disqualified S under rule 2. S appealed.

Decision

S's appeal is upheld and S is reinstated in her finishing place. P broke rules 10 and 14 and is disqualified. There was nothing unfair in S holding her course and clearly rule 2 does not apply. S broke rule 14, but since she held right of way and there was no damage or injury, she was exonerated by rule 43.1(c) for having contact with P.

1970

APPEAL 5 DELETED (in 2021)

APPEAL 6

Rule 11, On the Same Tack, Overlapped

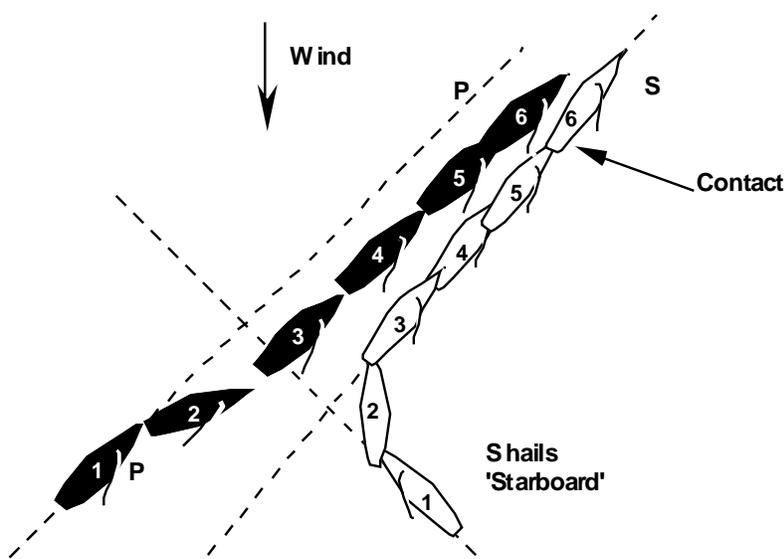
Rule 14, Avoiding Contact

Rule 15, Acquiring Right of Way

Rule 16, Changing Course

Rule 43.1(c), Exoneration

A hail of "starboard" by a boat does not change the respective rights or obligations of either a right-of-way boat or a keep-clear boat. A starboard-tack boat that tacks after a port-tack boat has borne away to pass astern of her does not necessarily break a rule.



Summary of the Facts

S on starboard tack and P on port tack were on collision courses on a windward leg. S hailed "starboard" when some distance from P. P eased sheets and began to bear away to pass astern of S. S then tacked onto port. P luffed, became overlapped to windward of S, and sailed parallel to S for four or five boat lengths before contacting S, who did not change course after tacking onto port. There was no damage or injury. P protested S under rule 16 and S protested P under rule 11. The protest committee upheld both protests. It disqualified P for breaking rule 11 and S for tacking into P's path after hailing "starboard." S appealed.

Decision

S's hail of "starboard" is not a hail required by the racing rules and is therefore no more than a seamanlike warning to P of the presence of a right-of-way boat. As such, it was not a declaration of intent and the hail by S in no way changed the obligation of P to keep clear or the right of S to sail her course, including tacking subject to rule 13.

When S changed course at position 2, she was required to give P room to keep clear. Although P immediately changed course as a result of S luffing to tack, P did not need to do so. Had P held her course at position 2 she would have continued to keep clear by passing astern of S. Thus, S did not break rule 16.1 when she changed course. Rule 16.2 did not apply because it applies only when a boat in S's position bears away and in this case, S luffed.

S kept clear of P after passing head to wind until she was on a close-hauled course on port, as required by rule 13. S complied with rule 15 because her tack was completed without any need for P to immediately act to keep clear. P was then overlapped to windward of S and required to keep clear by rule 11. The fact that contact occurred after four or five boat lengths shows that P did not keep clear and did not avoid contact with S, breaking rules 11 and 14.

It was possible for S to avoid contact when it was clear that P was not keeping clear. Therefore S broke rule 14. However, since S held right of way and the contact resulted in neither damage nor injury, she was exonerated by rule 43.1(c).

S's appeal is upheld; S is to be reinstated in her finishing place. P remains disqualified for breaking rules 11 and 14.

See also World Sailing Case 6.

1971

APPEAL 7

Adopted as World Sailing Case 25

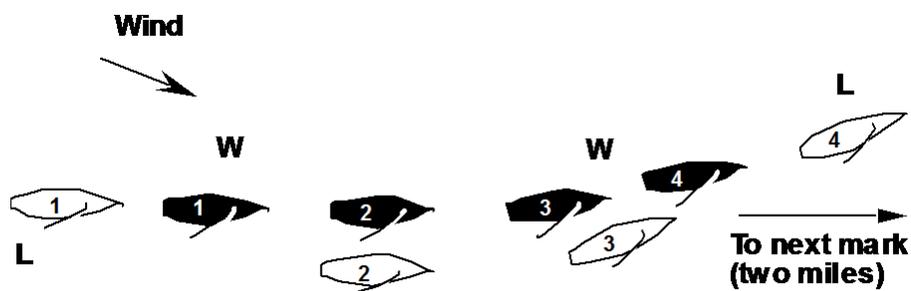
APPEAL 8

Definitions, Proper Course

Rule 15, Acquiring Right of Way

Rule 17, On the Same Tack; Proper Course

*A boat's proper course may not be the direct course to the next mark.
A leeward boat subject to rule 17 may sail a higher course, if she would choose to sail that course in the absence of the windward boat.*



Summary of the Facts

On a downwind leg about two miles (3 km) from the next mark, L (a Whitby 45) established a leeward overlap on W (a Six Metre), from clear astern. L was less than two of her hull lengths from W. Both boats were sailing the same course parallel to each other and about one boat length apart for some time. L then altered course to windward when partially ahead but still overlapped. L hailed "coming up to my proper course," and W replied "you have no right to luff." W was forced to luff to stay clear of L, and protested L under rule 17. The course sailed by L after her luff at position 3, was higher than her course before she bore away to pass to leeward of W at position 1. However, boats sailing in the same class as L, to

windward and astern of W, were sailing faster due to a wind shift. L's change of course at position 3 was made to reach the new wind as soon as possible. The protest committee dismissed W's protest based on a conclusion that the course sailed by L was a proper course. W appealed.

Decision

W's appeal is denied. When L established a leeward overlap from clear astern, W became bound by rule 11 to keep clear of L. At the same time, L was bound by rule 15 to initially give W room to keep clear. Thereafter, L was justified in changing course provided that: (i) she did not sail above her proper course; and (ii) whenever she changed her course she gave W room to keep clear under rule 16. L's luff to reach the new wind was to finish as soon as possible. Since she did not sail above her proper course, she did not break rule 17.

1971

APPEAL 9

Definitions, Finish

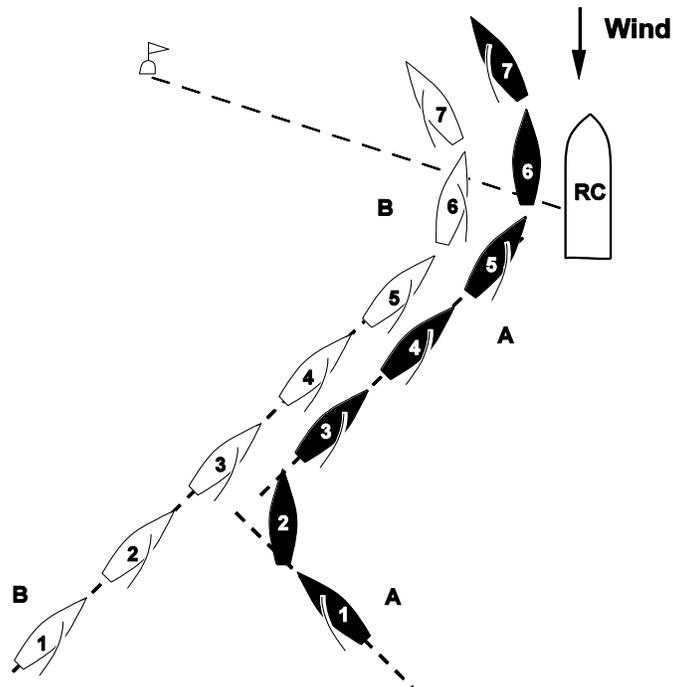
Definitions, Racing

Part 2 Preamble, When Boats Meet

Rule 13, While Tacking

Rule 23.1, Interfering with Another Boat

A boat is racing and remains subject to the rules of Part 2 until she has cleared the finishing line and finishing marks. She is subject to a penalty if she breaks a rule while racing, and may be disqualified under rule 23.1 if, after she clears the finishing line and marks, she interferes with a boat that is still racing.



Summary of the Facts

A on starboard and B on port, were beating to the finishing line. The RC vessel end of the line was favoured. As soon as A could lay the RC vessel, she tacked onto port. A crossed the finishing line first and immediately tacked onto starboard to avoid contact with the RC vessel. It was uncertain whether A's stern was on the course side or on the finish side of the finishing line when A passed through head to wind; but as B crossed the finishing line, she had to tack to avoid contact with A who had not completed her tack. B protested, and A was disqualified for breaking rule 13. A appealed on the grounds that she was no longer racing.

Decision

The preamble to the rules of Part 2 specifies that the Part 2 rules apply to boats sailing in or near the racing area that intend to race, are racing or have been racing. The rules of Part 2 therefore applied to A throughout the incident. In addition, under the definition Racing, A was racing until she had finished and cleared the finishing line and finishing marks. A was in close proximity to the finishing line and the RC vessel, which is a finishing mark. She therefore had not cleared the finishing line and finishing marks when she passed through head to wind. A was still racing when she broke rule 13, and was properly disqualified.

The basis for A's appeal was that she had finished and was therefore no longer racing. However, even if A had cleared the finishing line and finishing marks and, under the definition, was no longer racing, she would still be subject to the rules of Part 2 if she interfered with another boat that was racing, and A could therefore be subject to a penalty under rule 23.1. In this particular case, even if A had cleared the finishing line and marks at position 6 before she passed through head to wind, she certainly interfered with B because B had to change course to avoid A before B cleared the finishing line and while B was therefore still racing. In either case, A would be penalized either under rule 13 in the first circumstance as decided by the protest committee or under rule 23.1 if the second circumstance had happened. A's appeal is denied.

1972

APPEAL 10

DELETED

APPEAL 11

Rule 60.1, Right to Protest; Right to Request Redress or Rule 69 Action

A boat that breaks a rule while racing but continues to race may protest over a later incident, even though she is disqualified in the first incident.

Summary of the Facts

W and L were involved in port-starboard incident. L, the port-tack boat, did not take a penalty. Later in the same race W was to windward of L on the same tack and failed to keep clear of L. W did not take a penalty. Both boats protested. L was disqualified for the first incident for her breach of rule 10. W was disqualified for the second incident for her breach of rule 11. W appealed the second decision because of the disqualification of L for the prior incident.

Decision

W's appeal is dismissed. When L continued to race after the first incident, she retained all her rights under the rules, including the right to protest under rule 60.1(a).

World Sailing Case 1 refers.

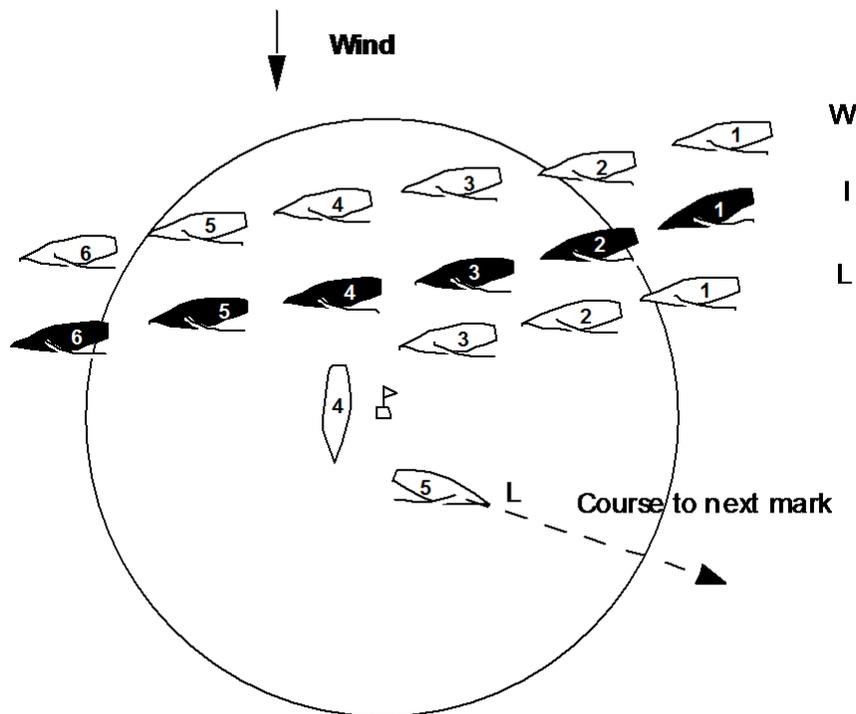
1972

APPEAL 12

Rule 18.2(b), Mark-Room: Giving Mark-Room

Rule 18.4, Mark-Room: Gybing

Until an inside right-of-way boat reaches the point in rounding a mark where her proper course is to gybe, an outside overlapped boat must give mark-room. The inside right-of-way boat shall then sail no farther from the mark than needed to sail her proper course.



Summary of the Facts

L and I were close reaching on starboard tack toward the gybing mark which was not a gate mark. W had sailed high early in the leg, and was reaching down on the mark on starboard tack. L and I gained inside overlaps on W near the mark. Wind velocity was 15 knots gusting to 25. I began to furl her headsail 150 yards (150 m) from the mark in preparation for gybing. L called for mark-room, received it, and gybed to round the mark. I hailed W for mark-room and was given it. Because of the gusty wind, a wet foredeck and a foredeck crew who had injured an arm earlier in the race, I was not ready to gybe after L did so. I carried on, broad-reaching to blanket the headsail, and kept asking the foredeck crew if he was ready to gybe, feeling it would be unsafe to gybe until he was ready. During this time W kept hailing I to gybe to her proper course. I did not gybe until she was much farther from the mark than needed to allow her to gybe to her proper course. By the time I gybed, thus allowing W to gybe, several other boats astern had gybed around the mark and passed both I and W. W protested. I was disqualified under rule 18.4 and appealed.

Decision

I's appeal is denied. I was entitled to mark-room under rule 18.2(b) and was given it. Since the mark was not a gate mark, rule 18.4 also applied, and I broke it by sailing farther from the mark than needed before she gybed to sail her proper course.

1972

APPEAL 13
DELETED (in 2021)

APPEAL 14

Definitions, Keep Clear
Rule 11, On the Same Tack, Overlapped
Rule 14, Avoiding Contact
Rule 16.1, Changing Course
Rule 43.1(c), Exoneration

A windward boat that overtakes a leeward boat so close to windward that the leeward boat cannot change course without immediately making contact does not keep clear, and breaks rule 11.

Summary of the Facts

On a downwind leg, W was overtaking L and became overlapped very close to windward of her. L luffed slightly but W was so close that there was immediate contact with L with no damage or injury. W protested L under rules 16 and 14. L was disqualified under rule 16 for not allowing W room to keep clear and under rule 14 for failing to avoid contact. L appealed.

Decision

L's appeal is upheld. L was a leeward right-of-way boat and W was required to keep clear under rule 11. Because W became overlapped so close to windward of L, L was not able to change her course without immediately making contact with W. Even if L had not luffed, W did not keep clear, and broke rule 11. L broke rule 14, but since she held right of way over W and there was no damage or injury, she was exonerated by rule 43.1(c). W was not keeping clear before L's luff, therefore L's change of course did not deprive W of room to keep clear, so L did not break rule 16.1. W is disqualified for breaking rules 11 and 14.

1973

APPEAL 15

Rule 61.1, Protest Requirements: Informing the Protestee
Rule 63.2, Hearings: Time and Place of the Hearing; Time for Parties to Prepare
Rule 63.3, Hearings: Right to Be Present

A boat intending to protest must hail "protest" at the first reasonable opportunity, but failure of her hail to be heard does not invalidate her protest. The fact that a protestee did not know she was being protested is not, by itself, grounds for not hearing a protest. If a party to the hearing does not attend the hearing, the protest committee may nevertheless decide the protest. If the party was unavoidably absent, the committee may reopen the hearing.

Summary of the Facts

S protested P when P, ahead and to leeward of S, tacked onto port and tried to cross S. The time and place of the hearing was posted on the official notice board within the time limit stated in the sailing instructions. The protest committee waited one and one half hours for P to appear, and then heard the protest in P's absence. S gave evidence that she hailed P as P was tacking onto port; S hailed her again after the tack was completed, when she was forced head to wind to avoid contact with P. S hailed P that she was protesting and displayed a protest flag immediately. The protest committee disqualified P under rule 10.

P appealed on the following grounds:

1. A protest flag was not displayed conspicuously by S;
2. The protest committee did not advise P that she had been protested or of the hearing, although the helmsman of P was at his nearby club and could have been reached there by telephone;
3. P was not advised of the decision except by the notation “DSQ after protest” in the race results; and
4. No foul was committed because P returned to starboard tack before S got near her.

Decision

The fourth of P’s grounds for appeal relates to the facts found and is inadmissible under rule 70.1. The appeals committee is satisfied that S complied with rule 61.1 and the protest committee complied with rule 63.2 by posting the time and place of the hearing on the official notice board.

In her comments on the appeal, P admitted that S shouted “protest” at the time of the incident. The red flag on the red-hulled S was not seen by P, but was seen by the race committee at the finish. The sailing instructions stated that protests would be heard at the host club as soon as possible after the boats finished. P returned to her own club after the race and made no attempt to determine whether a protest had in fact been delivered. The protest committee waited for one and a half hours for P to appear and was under no obligation to pursue P to notify her of the scheduled protest meeting, and certainly not beyond the confines of the host club.

When a protestee fails to attend a protest hearing, she is sufficiently advised of the decision if the race results note her as “DSQ after protest.” A copy of the protest and decision shall be provided on request under rule 65.2.

P’s appeal is denied.

1974

APPEAL 16

Rule 63.6, Hearings: Taking Evidence and Finding Facts

Rule 64.1, Decisions: Standard of Proof, Majority Decisions and Reclassifying Requests

Rule 65.1, Informing the Parties and Others

Rule R5, Inadequate Facts; Reopening

Only one valid protest is needed to require a protest committee to hold a hearing on an incident. It is the responsibility of the protest committee, however difficult this may be, to give the weight it considers appropriate to the evidence presented and make a decision on what facts apply.

Summary of the Facts

Prior to the starting signal, W and L were sailing away from the starting line on port tack, with W close astern of L. W was sailing faster and higher on the wind and established an overlap to windward of L. L luffed head to wind, and there was contact with no damage or injury. W tacked. W protested L. L appeared to stop racing but subsequently continued to race. L protested stating that she intended to tack, luffed slowly head to wind, then fell back onto port tack after the collision.

In the face of conflicting evidence, the only fact that the protest committee established was that W was to windward of L at the time of contact. W was disqualified under rules 11 and 14. W appealed citing rule 16 and questioned the validity of L’s counter-protest because L failed to fly a protest flag.

Initial Findings of the Appeals Committee

The protest committee did not clearly establish all of the facts of the incident as required by rule 63.6(a), specifically with respect to the application of rule 16. Rule 65.1, requires the protest committee to state the facts found, decision and the reasons for it. Under rule R5, the protest committee was therefore directed to reopen the hearing and report any new finding of facts.

Findings of the Reopening of the Hearing

The protest committee did not establish any new facts at the reopened hearing and, in particular, it did not resolve the conflicting evidence with regard to the speed of L's luff before contact occurred.

Decision

The protest committee heard W's protest which it found met all of the requirements of rule 61. Only one valid protest is needed for any incident to require a protest committee to hold a hearing on that incident.

Under rule 63.6(d) it is the specific responsibility of the protest committee, however difficult this may be, to give the weight it considers appropriate to the evidence presented, determine what facts apply and to base its decision on them. The protest committee does not have the option to refer its indecision on the facts to the appeals committee.

At the original hearing and the reopening, the protest committee did not establish that L luffed other than slowly. In the absence of any statement of facts to the contrary by the protest committee, based on a balance of probabilities, L's luff did not break rule 16.1, and contact occurred with W because W did not take proper action to keep clear. By failing to avoid contact with W when it was reasonably possible to do so, L broke rule 14. However, she was exonerated by rule 43.1(c) because there was no damage or injury. W's appeal is denied and her disqualification for breaking rules 11 and 14 is upheld.

1974

APPEAL 17

DELETED (in 2021)

APPEAL 18

Rule 11, On the Same Tack, Overlapped

Rule 13, While Tacking

Rule 14, Avoiding Contact

Rule 15, Acquiring Right of Way

Rule 64.2, Decisions: Penalties

A boat is no longer subject to rule 13 after she reaches her new close-hauled course. If she then acquires right of way, she must initially give the other boat room to keep clear, at which time the keep-clear boat must begin to act to keep clear.

Summary of the Facts

L tacked from port onto starboard in the lee of W, who was already on starboard and was approaching the finishing line. W did not change course while L was tacking. Both boats sailed side by side for a couple of boat lengths. Contact then occurred between W's sail and L's helmsman in a gust. L hailed "protest" and W took a Two-Turns Penalty. W protested L for tacking too close and failing to keep clear under rule 13. The protest committee dismissed W's protest, finding that L's tack had been completed before the incident. W appealed.

Decision

W's appeal is denied. L kept clear of W from the time she was head to wind until she reached her new close-hauled course, and did not break rule 13. After L's tack was completed, she initially gave room to W to keep clear as required by rule 15. W was then required to keep clear of L under rule 11 and failed to do so. W broke rules 11 and 14. Since W took the appropriate penalty under rule 44.1, she is not further penalized according to rule 64.2(a). Once it was clear that W was not keeping clear in the gust, there was nothing L could do to avoid contact, therefore L did not break rule 14.

1974

APPEAL 19

Rule 60.1, Right to Protest; Right to Request Redress or Rule 69 Action

Rule 61.1, Protest Requirements: Informing the Protestee

Rule 63.1, Hearings: Requirement for a Hearing

Rule 63.5, Hearings: Validity of the Protest or Request for Redress

A boat greater than 6 metres in length intending to protest because of an incident in the racing area that she saw shall hail “protest” and conspicuously display a red flag at the first reasonable opportunity for each.

Summary of the Facts

In a race for cruising class boats greater than 6 metres in length, X and S were on starboard tack with X about three to four boat lengths directly ahead of S. P on port tack caused S to change course to avoid a collision. S displayed a protest flag. Subsequently S dropped out of the race and did not file a protest. After finishing, X advised the race committee that she had observed the incident and had seen S’s protest flag but did not fly a protest flag herself.

After reaching harbour, X attempted to file a written protest with a member of the race committee but this was refused. X’s skipper contacted the chairman of the race committee the following week and, after investigation, the chairman decided to hold a hearing. At the hearing, P was disqualified for failing to keep clear of S. P appealed.

Decision

Rule 61.1(a) requires a boat intending to protest because of an incident in the racing area that she saw to hail “protest” and conspicuously display a red flag at the first reasonable opportunity for each. She shall display the flag until she finishes or retires. As a witness to the incident, X had knowledge of the facts but failed to comply with rule 61.1(a).

Initially, the race committee acted incorrectly in refusing to accept the protest on the grounds that X did not display a protest flag. Rule 63.1 requires the protest committee to hear all protests that have been delivered to the race office unless it allows a protest to be withdrawn. A protest hearing should have been convened, at which time the protest would have been found to be invalid because all of the requirements for a valid protest were not met. The hearing then should have been closed in accordance with rule 63.5. The hearing that was subsequently convened by the race committee chairman should have been also been closed for the same reason.

P’s appeal is upheld and her disqualification set aside.

1974

APPEAL 20

Rule 64.4, Decisions: Decisions on Protests Concerning Class Rules

Rule 78.1, Compliance with Class Rules; Certificates

A boat’s owner shall ensure that the boat is maintained to comply with her class rules, and that her measurement or rating certificate, if any, remains valid.

Summary of the Facts

In a one-design class regatta, a protest was lodged which claimed that X’s keel had been modified without written permission of the class specifications and technical committee as required by the class rules.

At the protest hearing the owner admitted that the keel had been modified and that he had not obtained written permission before altering his boat. The protest committee upheld the protest under rule 78.1 and class rules which require consultation with the class association and written authorization from the class

specifications and technical committee before attempting any forms of construction or modifications which might affect the boat's basic speed." X was disqualified.

X appealed on the grounds that:

1. Class rules were not broken;
2. There was no class specifications and technical committee from whom to obtain a written ruling; and
3. The alleged infraction was not seen by the protestors or by the protest committee.

Decision

The appeal is denied. With regard to grounds 1 and 3 for the appeal, the owner admitted that the keel had been modified and the required permission had not been obtained, in contravention of the closed class rules. The nature of the modification was not in dispute and the protest committee had no doubts about the matter. It was therefore unnecessary for the modifications to be inspected or for the matter to be referred to any other authority, so rule 64.4(b) is not applicable. With regard to ground 2 for the appeal, X produced no evidence to show that he had been unable to obtain written permission from the class association before making the alterations.

1974

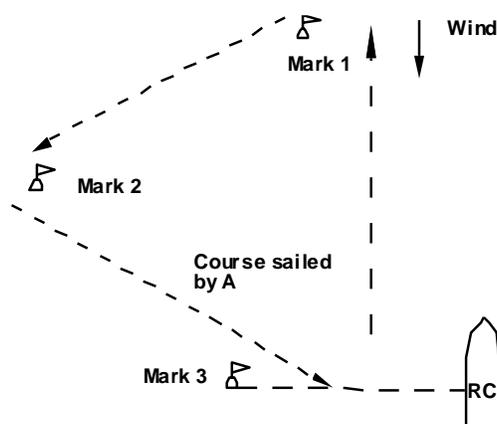
APPEAL 21

Definitions, Finish

Rule 64.3, Decisions: Decisions on Redress

Rule 86.1, Changes to the Racing Rules

Boats shall sail the course prescribed by the sailing instructions but, whatever may be implied from the sailing instructions, they shall finish in accordance with the definition Finish.



Summary of the Facts

The sailing instructions specified a course, twice around a triangle, 1, 2, 3, leaving all marks to port. A and some other boats crossed the finishing line as shown in the diagram, while other boats crossed the finishing line in the opposite direction, having first rounded the finishing mark to port. The race committee scored A as DNF. A requested redress claiming she had finished properly and the race committee had erred in scoring her DNF. The protest committee dismissed her request on the grounds that rule 28.1 applied. A appealed.

Decision

Appeal upheld. Rule 86.1(b) does not permit the sailing instructions to change definitions, hence the definition Finish always applies. The disqualification of A and the other boats that crossed the finishing line in accordance with the definition Finish is set aside.

1974

APPEAL 22
DELETED (in 2017)

APPEAL 23

Rule 70.1, Appeals and Requests to a National Authority

Rule 70.5, Appeals and Requests to a National Authority

Sailing instructions do not permit the protest committee to deny the right of appeal unless the requirements of rule 70.5 have been met.

Summary of the Facts

A protest occurred between X and Y shortly after the start of a race. The protest committee found that X broke rule 16 and disqualified her. X appealed.

The sailing instructions stated that the decisions of the protest committee would be final and that there would be no appeal. An international jury was not present. The regatta organizers had not obtained the prior approval of Sail Canada in accordance with rule 70.5 to allow the right of appeal to be denied.

Decision

Since there was not an international jury present, nor had the organizing authority received permission from Sail Canada to deny the right of appeal under any of the conditions contained in rule 70.5, X had the right to appeal the decision of the protest committee. The appeal was therefore valid and was accepted. After studying the facts of the protest, the appeals committee denied the appeal and upheld X's disqualification.

1974

APPEAL 24

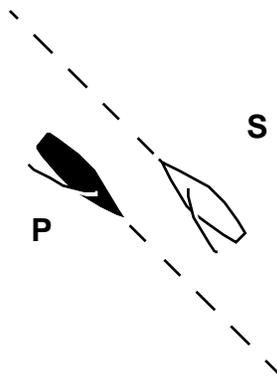
Rule 1.1, Safety: Helping Those in Danger

Rule 4, Acceptance of the Rules

Rule 10, On Opposite Tacks

Rule 44.1, Penalties at the Time of an Incident: Taking a Penalty

A boat that breaks a rule of Part 2 and causes serious damage to another boat must not only retire, but must also stand by to give all possible help to the endangered boat, even without a request to do so.



Summary of the Facts

Two boats were on approximately parallel courses, sailing in opposite directions, with S close-hauled on starboard tack and P running on port tack. The wind was light but occasionally gusted to 15 knots. The two boats were passing each other and about half a boat length apart when a gust suddenly increased S's angle of heel. Although both boats took evasive action, the masts collided and S was dismasted. Both boats protested. The protest committee disqualified P under rule 10 and noted that P should have stood by

S to give all possible help as required by rule 1.1. P's protest was dismissed because S did not change her course and P did not keep clear.

P appealed the protest committee's finding that she should have acted in accordance with rule 1.1 because S did not ask for assistance following the dismasting, and also in the belief that her retirement from the race might violate the terms of her insurance.

Decision

The appeal is denied. There was no question that P broke rule 10 in the dismasting of S and P should have retired under rule 44.1(b) because she caused serious damage to S. P clearly broke rule 1.1 and should not have continued to race. Instead, she should have established whether S was in need of help without S asking for it. By entering the race, P bound herself under rule 4.1(a) to observe the racing rules, and the terms of her insurance were irrelevant.

The incident happened when S's angle of heel increased but, because S did not change her course, she did not break rule 16. In addition, it was P's responsibility to keep clear under rule 10. S took evasive action to avoid contact with P, but due to the suddenness of the gust, it was not reasonably possible for S to avoid it. Therefore she did not break rule 14.

P broke rules 1.1, 10 and 14 causing serious damage. Because she did not take the penalty required by rule 44.1(b), she was properly disqualified.

1974

APPEAL 25

DELETED (in 2021)

APPEAL 26

Definitions, Rule

A boat may be disqualified for breaking a class rule which is in effect under the definition Rule.

Summary of the Facts

X protested Y under class rules at the start of the fourth race of a provincial championship, claiming that the mainsail and jib used by Y, in the third, fourth (and fifth) races were unmeasured. The notice of race, which accompanied the entry form, stated that only class stamped sails would be allowed. The protest committee found that Y had not complied with the class rules, namely that "The sails shall be constructed and measured in accordance with World Sailing Sail Measurement Instructions." Y was disqualified from races 4 and 5. Y appealed on the grounds that the notice of race was unclear, that the protest procedure was irregular and contrary to rule 63, and that the protest form used was irregular.

Decision

The appeal is denied. Y broke the class rule which was in effect under part (d) of the definition Rule, and was properly disqualified. The appeals committee notes that rule 64.4(c) also permitted the protest committee to disqualify Y in race 3 and earlier races in this event for using the illegal sail, without the need for a further protest.

1976

APPEAL 27

Adopted as World Sailing Case 38

APPEAL 28

Rule 63.2, Hearings: Time and Place of the Hearing; Time for Parties to Prepare

Rule 63.3, Hearings: Right to Be Present

Rule 63.6, Hearings: Taking Evidence and Finding Facts

Failure to follow the procedures of rule 63 may render a protest committee's decisions invalid.

A protest committee may conduct a hearing in the absence of a party who has been informed of the time of the hearing but does not attend.

Summary of the Facts

In a series comprising three consecutive races in one day, X was protested by Y in the first race and by Z in the third race. Both protests were heard at the completion of the series. The protest committee held a hearing and disqualified X in the first protest without notifying X that the hearing was taking place. When informed of the protest decision, X was told that, if she wished, she could present her evidence to the protest committee. This was done but without Y being present or her evidence being reheard. The original decision of the protest committee was not changed. As she left the hearing of the first protest, X was informed of the time and place of the hearing for the second protest. However, X left the area before the hearing. At this hearing X was disqualified. X appealed both decisions on the grounds that the protest committee had not conducted the hearings in accordance with rule 63.

Decision

In the first protest, X was not informed of the time and place of the hearing as required by rule 63.2. As the protest was not properly heard, X's appeal of the first protest is upheld and the decision of the protest committee disqualifying X is put aside.

In the second protest, X chose not to appear and the hearing was conducted in her absence as permitted by rule 63.3(b). The appeal of the second protest is denied and X's disqualification in the third race is upheld.

1976

APPEAL 29

Adopted as World Sailing Case 39

APPEAL 30

Rule 63.6, Hearings: Taking Evidence and Finding Facts

Rule 71.2, National Authority Decisions

Rule 86.1, Changes to the Racing Rules

Rule 90.2, Race Committee; Sailing Instructions; Scoring: Sailing Instructions

Rules shall not be changed unless permitted in the rule itself or as in rule 86.1.

Oral instructions shall not change rules unless permitted by the sailing instructions.

A protest committee may not deny the right to call witnesses.

Summary of the Facts

Contact occurred between X and Y during a race, and X was disqualified. At the skippers' meeting prior to the regatta, the race committee announced orally that "for the sake of expediency, only the protest committee would be permitted to call witnesses." At the protest hearing, the protestor advised the protest committee that she wished to call witnesses to the incident but, in accordance with the announcement, was precluded from doing so. X appealed this decision on the grounds that rule 63.6 allowed her to call witnesses to clarify the facts of the case.

Decision

The right to call witnesses in a hearing is a most fundamental right, the denial of which strikes at the basic principles of a full and fair hearing. Rule 63.6(a) requires the protest committee to take the evidence of the parties present at the hearing and of their witnesses..." Under rule 90.2(c), this right cannot be changed or limited by an oral announcement. The appeal is therefore upheld and the protest committee is directed under rule 71.2 to conduct a new hearing of this protest.

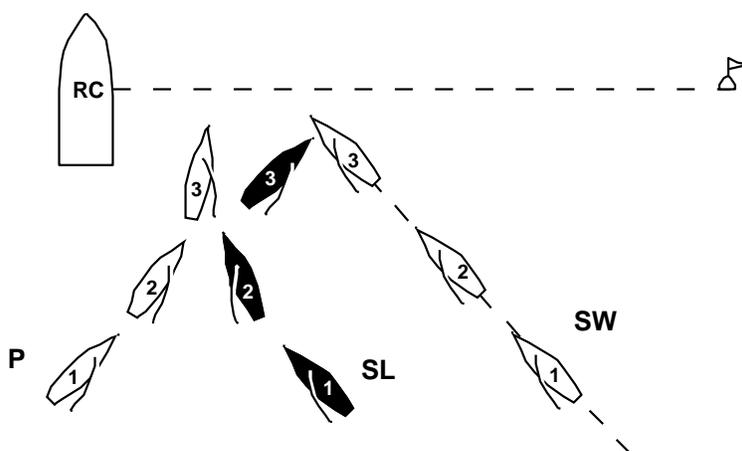
1974

APPEAL 31

Rule 14, Avoiding Contact

43.1(a), Exoneration

A boat that is compelled to break a rule by the actions of a boat that was required to keep clear is exonerated.



Summary of the Facts

Fifteen to 20 seconds before the start, the boats were in position 1. When P realized that she could not cross ahead of either SL or SW, she luffed. SL luffed to try to avoid P, but contact occurred just after position 2 causing SL's jib to back. This forced SL to tack. SL then contacted SW. P retired from the race and SW protested SL. SL was disqualified under rule 10. Further, the committee considered that SL should have anticipated the impending problems, passed astern of P and protested her, thus avoiding the problems which arose between SL and SW. SL appealed on the grounds that it appeared to put the onus on the starboard-tack boat to keep clear.

Decision

The appeal is upheld. The incident was caused by P sailing into an impossible position. SL was the right-of-way boat and took action to mitigate the effects of P's error in judgement. Although SL did not release her jib quickly and tacked to port breaking rule 10, this was caused by P, who properly retired. P's breach of rules 10 and 14 in turn compelled SL to break rules 10 and 14 in her contact with SW, and she was exonerated by rule 43.1(a) at the time of the incident. Once it was clear that SL was not keeping clear, there was no seamanlike action that SW could have taken to avoid contact, therefore she did not break rule 14.

1977

APPEAL 32

Adopted as World Sailing Case 68

APPEAL 33

Race Signals

Rule 62.1(a), Redress

Rule 64.3, Decisions: Decisions on Redress

When conducting a race, the race committee must satisfy both the visual and sound signal requirements of the race signals section of the rules.

Summary of the Facts

After the first leg of a race had been completed in very light winds, the RC mark vessel made three sound signals from the vicinity of the second mark. At the same time the RC signal vessel, which had remained at the starting area, displayed flag S and fired two guns. X heard the three sound signals, but not the guns, and assumed that the race had been abandoned. She returned directly to the signal vessel and discovered that the race had not been abandoned, but only shortened. X requested redress under rule 62.1(a). The protest committee granted X's request for redress, and under rule 64.3 it abandoned the race.

Another competitor, Y, then requested redress claiming that this decision was improper. The request for redress was dismissed. Y appealed on the grounds that a sound signal merely serves to draw attention to a visual signal, and that the latter should override errors in sound-making procedure.

Decision

There was no doubt that X's finishing place in the race was made significantly worse by the action of the RC mark vessel. Three sound signals has a specific meaning in Race Signals and refers only to abandonment, when "N," "N over H" or "N over A" is displayed. X reasonably concluded that one of these abandonment signals had been displayed by the race committee. The RC signal vessel was some distance away and flags were unlikely to be visible in the calm conditions. The Race Signal for abandonment requires both a visual and a sound signal. Two RC vessels making two different sound signals constituted an improper action by the race committee under rule 62.1(a) that made the finishing place of some competitors significantly worse, through no fault of their own. There was no improper action or omission by the protest committee in abandoning the race as the fairest arrangement for all those boats affected by the race committee's improper action. Y's appeal is denied.

1978

APPEAL 34

Rule 1.1, Safety: Helping Those in Danger

The requirement "to give all possible help" demands a high standard of compliance, and a boat may be required to render help or stand by to do so, even though another competitor is already doing so.

Summary of the Facts

During an offshore race, four boats on starboard tack were beating to windward in rough sea conditions with a strong wind. L ran aground and was dismasted when she was approximately 150 metres offshore. C retired from the race to give help to L. Two boats, X and Y, who were nearby, did not stop racing. Neither X nor Y saw the dismasting; but shortly thereafter both boats saw the dismasted boat. X was 180 metres ahead of L, and 180 metres to weather. Y was astern and well to weather of L.

X considered going to the assistance of the disabled boat; but when she noticed C going to assist L, X decided not to go to L's assistance. Water in the engine and no chart of the local area influenced this decision. Y notified the Coast Guard by radio, and positioned a crewman on the leeward side to watch L. The race committee protested X and Y for failing to give all possible help as required by rule 1.1. The protest committee dismissed the protest, stating that from the facts presented, there was reasonable doubt that either X or Y was in a position to render assistance.

The race committee appealed this decision to the Pacific International Yachting Association (PIYA) on the grounds that both boats were in a position to render assistance and failed to do so as required by rule 1.1.

Decision of the Pacific International Yachting Association Appeals Committee

The PIYA appeals committee decided that X and Y broke rule 1.1. In her appeal papers, Y stated that “the navigator informed me approximately eight minutes after the dismasting and, when L was well astern and to leeward, that L had asked if someone could help her, or words to that effect.”

Y was therefore probably no more than eight minutes sailing time from L when she knew of L’s call for assistance. X was also within sight of the dismasted boat. The committee accepted Y’s statement that she did render assistance to L by relaying radio messages and stationing a man on the leeward side to observe her. It was found that X considered going to the assistance of L. However, there is no dispute that neither X nor Y made any effort to remain in the vicinity or to return to L.

The issue was whether, on these undisputed facts, X and Y rendered “all possible help.” The PIYA appeals committee concluded that in addition to what they did do, X and Y could have closed with L and investigated her need for assistance. By not doing so, they failed to ascertain whether more assistance was possible and thereby failed to render “all possible help.” They both therefore broke rule 1.1. The committee did not consider that their failure to do this was excused by the fact that C was going to the assistance of L. Possibly two or three boats could have succeeded in giving effective assistance where one could not. Nor did the committee consider X to be excused by possible water in her engine or lack of charts. She could have returned under sail and exercised caution with respect to the shoreline.

The committee appreciated that X and Y had to make a decision in a difficult situation. However, the possible grave consequences of one boat failing to investigate the distress call of another compel the committee to exact a very high standard of compliance with rule 1.1. Reference is also made to World Sailing Case 20 where it was held that a boat in position to render assistance to another that might be in danger was bound to do so whether the assistance was requested or not.

The appeal is upheld by the PIYA appeals committee, and the decision of the protest committee dismissing the protest is reversed. X and Y are disqualified for breaking rule 1.1. Y appealed this decision to Sail Canada.

Decision of the Sail Canada Appeals Committee

The Sail Canada appeals committee agreed with the PIYA appeals committee and upheld the disqualification of X and Y.

1978

APPEAL 35

Rule 11, On the Same Tack, Overlapped

Rule 16.1, Changing Course

Part 2, Section C Preamble, At Marks and Obstructions

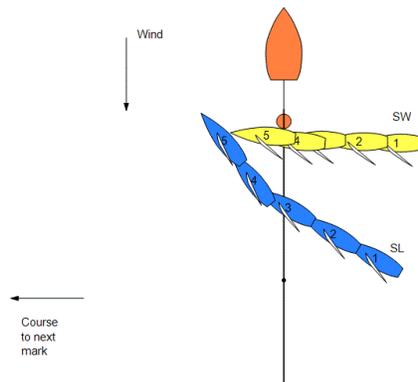
Rule 31, Touching a Mark

Rule 43.1(a), Exoneration

A leeward boat that changes course when approaching a starting mark may not compel the windward boat to make contact with the mark. A boat that is compelled to touch a mark by the actions of another boat breaking a rule of Part 2 is exonerated for breaking rule 31.

Summary of the Facts

SL and SW were approaching the starting line to start, with SL sailing high of the beam reach course to the first mark. SW was to windward of SL and converging with her. SL crossed the starting line just after the starting signal, one boat length to leeward of the starting mark, with SW overlapping her to windward and with SW’s bow overlapping the mark. SL then luffed above the course to the first mark. The bow of



SW contacted SL about amidships and almost at right angles. SW was forced by the contact into the starting mark. Both boats protested. SW was disqualified under rule 11. SW appealed.

Decision

According to the preamble to the rules of Part 2 Section C, SL was under no obligation to give SW, an inside boat, mark-room to pass the starting mark. However, rule 16.1 required SL to give SW room to keep clear when SL changed course. Room is defined as “the space a boat needs in the existing conditions, including space to comply with her obligations under the rules of Part 2 and rule 31, while manoeuvring promptly in a seamanlike way.” It is not seamanlike to be forced to contact objects such as, in this case, a mark or its ground tackle, or both. SW broke rule 11 by not keeping clear of a leeward boat, and rule 31 by touching the mark. Because SW was compelled to break rules 11 and 31 by SL’s breach of rule 16.1, she was exonerated by rule 43.1(a) at the time of the incident.

SW’s appeal is upheld. SL is disqualified for breaking rule 16.1. SW is to be reinstated in her finishing place.

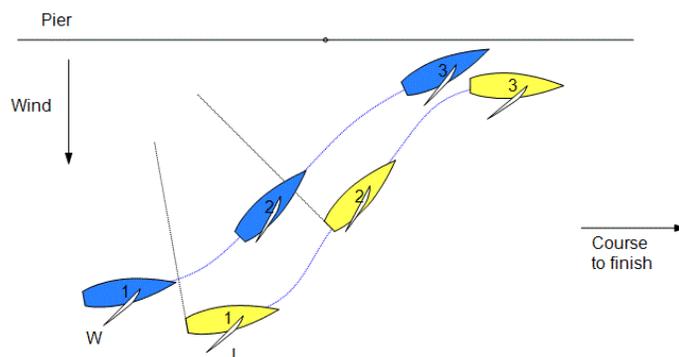
1979

APPEAL 36

Rule 19.2, Room to Pass an Obstruction: Giving Room at an Obstruction

Rule 43.1(b), Exoneration

Once an inside overlap at a continuing obstruction is established under rule 19.2(b), and until that overlap is broken, an inside boat retains her rights to room, regardless of any changes of course by the other boat.



Summary of the Facts

W and L were close reaching on port tack. W was gradually overtaking L to windward. L headed up slowly, resulting in both boats converging on a pier which ran parallel to the course. W established an overlap with L at position 1, when the boats were several boat lengths from the pier. L luffed and continued to sail towards the pier until W hit the pier, and then W’s bow pulpit contacted the port end of L’s stern pulpit. W was disqualified and appealed.

Decision

Rule 19 applies when boats are sailing close to an obstruction. The pier was a continuing obstruction, and the boats were initially distant by several boat lengths from it at position 1 when W began to overtake L. When W established the overlap with L at position 1, there was room for W to pass safely between L and the pier. L became obligated to give room to W under rule 19.2(b) and she did so. However, when L luffed at position 2 and continued to sail towards the obstruction, she failed to give W room, breaking rule 19.2(b). Since W broke rule 11 as a consequence of L's failure to give enough room as required by rule 19.2(b), she was exonerated by rule 43.1(b).

The appeal is upheld. L is disqualified and W is reinstated.

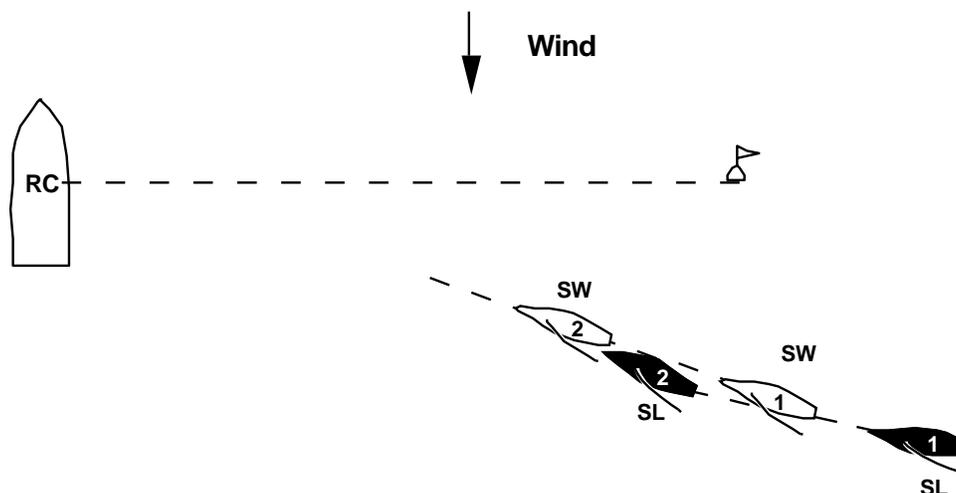
1979

APPEAL 37 DELETED (in 2021)

APPEAL 38

Rule 15, Acquiring Right of Way

A boat need not anticipate a change in right of way.



Summary of the Facts

SW and SL were reaching on starboard tack and approaching the starting line to start. SL, who was moving faster than SW, hailed SW to “go up” when SW was three boat lengths ahead of her. But because SW did not respond, SL had to bear away before establishing a leeward overlap. Contact occurred almost immediately between SW and SL. The protest committee disqualified SL under rule 15 for not giving SW room to keep clear. SL appealed.

Decision

SL's appeal is denied. Rule 15 begins, “when a boat acquires right of way,” thus this rule does not require a boat clear ahead to take any action until an overlap is established. In this case, SL expected SW to start to keep clear before the overlap was established. Rule 11 applies immediately upon establishment of the overlap, but rule 15 limits the actions of SL when the overlap is first established. SL broke rule 15 and was properly disqualified.

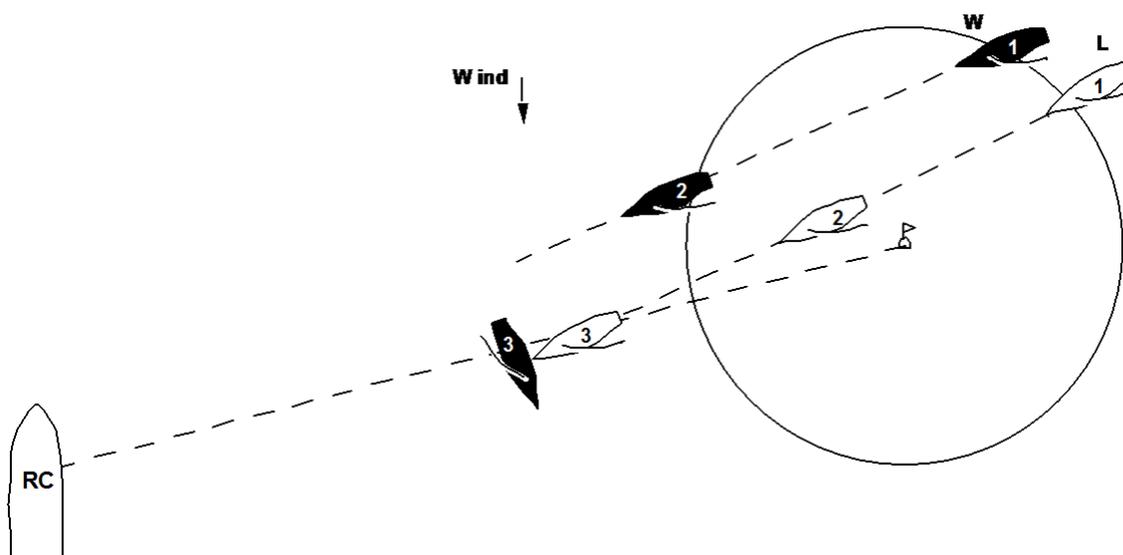
1979

APPEAL 39

Rule 1.1, Safety: Helping Those in Danger

Rule 10, On Opposite Tacks
Rule 14, Avoiding Contact
Rule 16.1, Changing Course
Rule 17, On the Same Tack; Proper Course

*When a right-of-way boat changes course, she shall give the other boat room to keep clear.
Notwithstanding the proximity of a race committee boat, a boat may be subject
to disqualification for failing to help another boat in danger.*



Summary of the Facts

L and W were approaching the port-end mark of the finishing line. The wind was gusting to 15 knots and both boats were on starboard tack, wind aft of the beam, with W clear ahead. L established an overlap to leeward of W, before W reached the zone of the finishing mark which was to be left to port. L hailed “overlap.” W altered course to windward, allowing L plenty of mark-room to pass the finishing mark on the required side. W drew clear ahead of L as L came abreast of the mark at position 2 and, at this moment, W was sailing a course approximately parallel to the finishing line. W carried on for approximately a boat length, bore away and suddenly gybed on to port and crossed the finishing line more or less at right angles. L passed close to the mark and proceeded on starboard tack in a straight line to cross the finishing line at an acute angle. When W on port tack, was approximately halfway across the finishing line, the bow of L hit her amidships at right angles, resulting in a big hole on the port side of W. At this time, L had also crossed the finishing line. L made straight for the club without offering assistance to W. Both boats protested.

The protest committee disqualified L for breaking rule 17 and rule 1.1, and disqualified W for breaking rule 10. W appealed.

Decision

The appeal is denied. Both boats are disqualified; however, W for breaking rules 10, 16.1 and 14, and L for breaking rule 1.1.

L became the right-of-way boat subject to rule 17 when she made a leeward overlap on W as the boats approached the mark. Rule 18.2(a) applied until both boats had passed the mark. However, W drew clear ahead of L as L passed the mark so that rule 17 no longer applied when L passed the mark. Rule 18 also ceased to apply at position 2.

At position 2, W was clear ahead, and had right of way under rule 12. However, when W bore away quickly ahead of position 3 she broke rule 16.1. Furthermore, after her gybe she was required to keep clear of L under rule 10, and to avoid contact under rule 14. W broke rules 10, 16.1 and 14.

Although the collision resulted in damage, L did not break rule 14 because W's gybe was sudden and gave L no room to avoid the collision. However, L broke rule 1.1 when she failed to stand by W after the collision. The proximity of the race committee boat did not relieve L of this responsibility.

1979

APPEAL 40

Rule 10, On Opposite Tacks

Rule 14, Avoiding Contact

Rule 44.2, Penalties at the Time of an Incident

A right-of-way boat is disqualified when she does not attempt to avoid contact and the contact causes damage. Penalty turns must be taken promptly, one after the other.

Summary of the Facts

S and P were close-hauled and approaching each other on opposite tacks. S hailed "starboard," and moments later as P was tacking from port to starboard, S collided with P, causing damage. S protested. P thereafter completed one tack and one gybe, and some time later a second tack and gybe. The protest committee found that S made no attempt to avoid contact with P and disqualified her for breaking rule 14. It also disqualified P because she failed to take the Two-Turns Penalty in accordance with rule 44.2. S appealed.

Decision

The appeal is denied although the reason for P's disqualification is changed to breaking rules 10 and 14 for failing to keep clear of and avoid contact with S. Since the penalties described in rule 44 are permissive, failure to execute them properly is not a breach of a rule per se, but it does leave her open to a penalty for the breach of a rule of Part 2.

1980

APPEAL 41

Rule 62.1(a), Redress

The shifting of a rounding mark due to inclement weather is not necessarily grounds for redress.

Summary of the Facts

X was sailing in a race where courses are signalled from the committee boat using mark numbers for club marks. The locations of these marks were shown on a chart in the clubhouse and a chart which formed part of the sailing instructions. X sought redress saying her finishing position was made significantly worse in this race because mark 2 was some 200–250 metres south and 100–150 metres east of its charted position. X said that on the reaching leg of the course she sailed a higher and slower course toward the charted position whereas other boats sailed a faster, lower course toward the mark itself. The protest committee conceded that mark 2 was out of its normal position as stated. But it rejected the request for redress, deciding that all boats were equally affected and X's score was not therefore made significantly worse. X appealed.

Decision

X's appeal is denied. In its combined official diagram and observations, the protest committee showed the length of this leg of the course as 1.3 km and confirmed that the movement of the mark occurred due to high winds before the race started and that the mark did not move during the race. The appeals committee notes that the shifting of a mark due to high winds is not unusual, that there is no evidence that the mark was not visible and is satisfied that the protest committee was correct in finding that X's score was not made significantly worse.

1980

APPEAL 42

Rule 35, Race Time Limit and Scores

Rule 62.1(a), Redress

Rule 64.3, Decisions: Decisions on Redress

A protest committee shall interpret defective sailing instructions in the most equitable manner for all boats competing.

Summary of the Facts

The sailing instructions defined the course as a triangle, windward, leeward, windward; except that the starting and finishing line was located at about the mid-point of the windward leg and included the following provisions:

- (e) If no boat has completed the first lap within two hours, the race will finish when the first boat has completed one lap.
- (f) The race will be abandoned if no boat has completed two laps within three hours, etc.

X was competing in a club race in very light wind. No signal was given to shorten the course. Eight of 20 competing boats, including X, dropped out. The rest of the fleet sailed one lap with the winner finishing three hours and eleven minutes after the race started. X sought redress citing the sailing instructions and rule 35, and requested that the race be abandoned. Her request was rejected by the protest committee which found SI (e) applied and that SI (f) did not apply unless the leading boat finished one lap within two hours. X appealed.

Decision

The sailing instructions were seriously defective. A "lap" was not defined nor is it a defined word in the rules. SI (e) was interpreted as meaning there was no time limit for a one lap race which exceeded two hours. The sailing instructions are ambiguous and unclear but it is quite illogical to interpret them as meaning that their author intended that a one-lap race which took over three hours to sail should stand, but that a two-lap race of the same duration should not. Therefore, it is found that SI (f) overrides SI (e).

Appeal upheld. The race committee is directed to consider the race as abandoned and it shall not be scored.

1981

APPEAL 43

DELETED (in 2010)

APPEAL 44

Definitions, Party

Rule 3, Decision to Race

Rule 60.3, Right to Protest; Right to Request Redress or Rule 69 Action

Rule 62.1(a), Redress

Rule 64.3, Decisions: Decisions on Redress

Rule 70.1, Appeals and Requests to a National Authority

A boat may appeal a decision of a protest committee only when she was a party to the hearing.

A boat that decides not to start or not to continue in a race because of an apparently incorrect action by the race committee is not entitled to redress because her own action made her score significantly worse.

Summary of the Facts

Following a general recall at the start of her class, X did not start, or having started, withdrew from the race. She subsequently filed a request for redress under rule 62.1(a) on grounds that her score in the race was made significantly worse by the race committee not following the general recall instructions, and that the sailing instructions themselves were “unfair” to her class. All other boats in her class started and finished and their times and finishing positions were taken by the race committee. The protest committee found that the sailing instructions were confusing, resulting in a race that was unfair for at least three of the boats in that class, one of which was Y. Feeling that it was impossible to make adjustments to elapsed times, the protest committee directed that the race for that class be abandoned.

Y did not request redress from the protest committee’s decision but appealed directly to Sail Canada. The grounds for Y’s appeal were that she was a boat affected by the decision of X’s request for redress, and that the protest committee abandoned the race without satisfying itself by taking appropriate evidence that its actions would be equitable to all boats concerned.

Decision

Y was not a party, as defined in the rules, to X’s request for redress and therefore had no right of appeal under rule 70.1. Her purported appeal is refused.

The Sail Canada appeals committee, however, makes the following observations:

1. Y’s proper recourse was to lodge a request for redress with the protest committee from its decision on X’s request. After the protest committee had heard this request, refusal or dismissal of such a request would be subject to appeal under rule 70.1.
2. When a boat decides voluntarily not to race or to continue racing, rule 3 applies and she is not entitled to redress for her score of DNS or DNF.
3. When the protest committee finds that a race was unfair to a number of boats, it may call a hearing to consider redress under rule 60.3(b). In doing so it would make the affected boats parties to the hearing, even if they did not request redress themselves. The protest committee would then take evidence from all boats affected and the race committee, as required by rule 64.2, to determine whether to abandon the race.

1981

APPEAL 45

Definitions, Rule

Rule 61.3, Protest Requirements: Protest Time Limit

A protest committee may extend the protest time limit when the protestor is not aware of the facts justifying the protest until after the race. Class restrictions on eligibility of a helmsman for certain class-sanctioned events apply only to those specific events. They do not apply to other open events since they are not class rules.

Summary of the Facts

A club's open regatta was part of an area racing association's event governed by the association's general instructions. X placed third in the race. After the race, Y filed a protest but acknowledged that she had not displayed a protest flag, had not notified X, and had not filed her protest within the time limit. The protest alleged infringement of the class rules because the helmsman of X was not an Active Skipper or Active Co-Skipper for the association's events or for additional races constituting the fleet's season championship, a sanctioned event.

The protest was accepted under rules 61.1(a) and 61.3 because Y stated that she was unaware that the helmsman of X was not a class member until after the race. An attempt to notify X by the protest committee failed and the protest was heard in her absence. A class official confirmed that X's helmsman was not a member of the class association although the owner/crew was a member. The fleet's season championship provided that association's races should be counted, and required that the skipper be a member of the class association. The protest committee disqualified X. X subsequently requested that the protest hearing be reopened. This was done and the original decision was confirmed. X appealed citing the absence of protest flag and attempt to notify by Y, late filing of the protest, failure to submit current class rules and failure to notify X of the hearing. X also submitted that even if her position in this race should not be counted for the fleet's season championship, her third-place finish should count in the club's open regatta.

Decision

The various procedural defects alleged by X are without merit because the protest committee accepted Y's statement that she was not aware of the facts justifying the protest until after the race, and the protest committee extended the time limit for delivering the protest for a proper reason. The initial protest hearing in the absence of X was justified under the sailing instructions because X did not come to the host club after the race. In any event the hearing was reopened and X was heard.

The class's championship rules are not class rules, and therefore were not rules governing the event under the definition Rule. As such, there was no restriction on the helmsman for the event.

The fleet's season championship instructions should properly be applied to determine its own results but cannot and do not affect prizes or positions in an open event such as this one. X's appeal is upheld in part and the decision of the protest committee is reversed. X is reinstated to her finishing place in the regatta but her place is not to be counted in determining the fleet's season championship.

1981

APPEAL 46

Adopted as World Sailing Case 50

APPEAL 47

Rule 11, On the Same Tack, Overlapped

Rule 43.1(a), Exoneration

A boat intervening between a windward and a leeward boat is exonerated for breaking rule 11 when a boat to windward of her breaks rule 11 and thus prevents the intervening boat from keeping clear.

Summary of the Facts

L (Leeward), M (Middle) and W (Windward) were approaching the starting line, before the starting signal, overlapped on starboard tack. L was prevented from heading as high as she wished, by M and W. M protested W and W was disqualified under rule 11. L protested M under rule 11. The protest was dismissed because the protest committee found that W had prevented M from responding to L's request for room. L appealed.

Decision

The appeal is denied. The protest committee was correct in disqualifying W for breaking rule 11. Because W prevented M from keeping clear of L, M was exonerated by rule 43.1(a) at the time of the incident.

1981

APPEAL 48

Rule 32.1, Abandoning after the Start

Rule 62.1(a), Redress

Rule 64.3, Decisions: Decisions on Redress

A race may not be abandoned after one boat has finished, without considering the consequences to all other boats in the race.

Summary of the Facts

The second race of an annual regatta had been underway for some three hours by 7:30 PM. The wind had been calm for over half an hour. Approximately half the fleet had finished. The practice for this regatta is to appoint a judge to oversee and manage the operation. At this time, the judge decided to abandon the race which he accomplished by sounding his horn several times and removing all signals. He, however, turned his tally sheets in to the race committee which showed finishing times for seven boats and DNF against the other eight boats. He then left the area. On the following day, races 3 and 4 were sailed and total scores were calculated including the scores for race 2. Prizes were awarded.

Some considerable time later, the judge advised the race committee chairman that race 2 had been abandoned and was to be re-sailed. This was done, and the scores were recalculated. X sought redress from this action of the race committee under rule 62. The protest committee dismissed this request. X appealed.

Decision

The race was not abandoned in accordance with either the sailing instructions or rule 32.1. Nor was an equitable arrangement made under rule 64.3 with respect to any of the boats who had completed the race. The appeal is upheld and the race committee is directed to reinstate all boats which finished in the first sailing of the race. As there is no scoring system provided in the notice of race or sailing instructions the Low Point System applies. It is recommended that one place greater than that of the last finisher in race 2 be considered as an equitable arrangement for the remaining boats that were unable to finish race 2 when the judge left the finishing line.

1981

APPEAL 49

Rule 12, On the Same Tack, Not Overlapped
Rule 13, While Tacking
Rule 18.1, Mark-Room: When Rule 18 Applies

When two boats are on the same tack and the boat that is clear ahead tacks, the boat that is tacking must keep clear.

Summary of the Facts

At a leeward mark to be left to port, I was overlapped by O. Both boats were on port tack. During the rounding manoeuvre the overlap was broken and when both boats had passed the mark, I was just ahead and to leeward of O. I tacked immediately and O had to bear away sharply to avoid hitting her before she completed her tack onto starboard. The protest committee found I to be the boat holding right of way, and disqualified O on the grounds that I was clear ahead and rule 12 applied. O appealed.

Decision

O was improperly disqualified. O gave I mark-room until I passed the mark. After both boats had passed the mark, mark-room had been given and rule 18.1 provides that rule 18 no longer applies. However, rule 12 ceased to apply as soon as I passed through head to wind, when rule 13 applied. I broke rule 13 because O had to change her course to avoid contact with I before I had reached a close-hauled course.

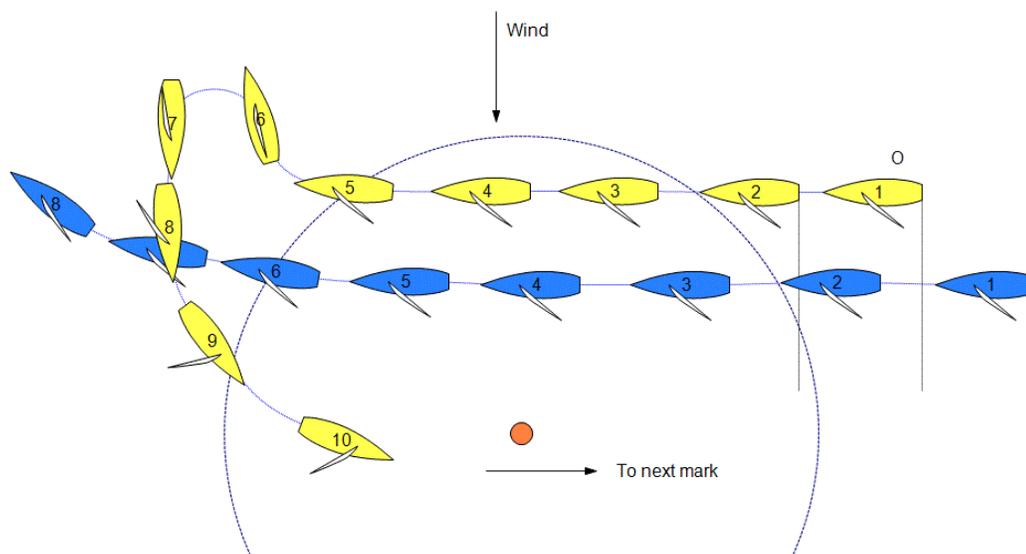
The appeal is upheld. O is reinstated and I is disqualified.

1981

APPEAL 50

Rule 17, On the Same Tack; Proper Course
Rule 18.2(a), Mark-Room: Giving Mark-Room
Rule 18.4, Mark-Room: Gybing

Failure to handle a boat in a seamanlike way is not an excuse for breaking rule 18.4. When an inside overlapped right-of-way boat must gybe at a mark to sail her proper course, until she gybes she shall sail no farther from the mark than needed to sail that course.



Summary of the Facts

When approaching the gybe mark in a 20-knot wind, I established an inside overlap on O from clear astern. The two boats sailed past the mark, but I did not gybe. O then gybed to assume her course to the next mark. I luffed and then tacked to assume her course to the next mark. I protested O under rule 18.2(a).

The protest committee found that an overlap was properly established by I at the zone as she approached the gybe mark, and that she was given room by O while passing the mark. When both boats had sailed at least three hull lengths beyond the mark, O gybed to assume her new course and I tacked in response. There was no contact. Applying rule 18.4, the protest committee ruled that I was required to gybe to assume a proper course to the next mark so that she would pass no farther from the mark than was required to sail that proper course. In addition, it ruled that O was within her rights to gybe and assume a proper course. I was disqualified.

The protest committee referred its decision to Sail Canada under rule 70.2, requesting clarification of two questions:

1. Did O become the right-of-way boat?
2. In the absence of contact, could O have been disqualified?

Decision

1. O did not become the right-of-way boat. Rule 18.4 was correctly applied. I was the right-of-way boat; but her right of way became subject to her obligation under rule 18.4 that she should pass no farther from the mark than needed to sail her proper course on the leg to the next mark. In sailing well past the mark as she did, I broke rule 18.4 and caused O to have to sail past the mark. When I sailed past the mark she also broke rule 17, by sailing above her proper course.
2. If there was contact between I and O, then O to windward would break rules 11 and 14 and she would also be disqualified. However, contact is not the test of whether the windward boat kept clear. The test is whether the leeward overlapped boat could sail her course with no need to take action because of reasonable apprehension of contact, and whether the leeward inside boat could change her course in either direction without immediately making contact. If I was required to take action to avoid contact with O, then O would break rule 11 and she would be subject to disqualification in the absence of contact.

1981

APPEAL 51

Definitions, Obstruction

Rule 10, On Opposite Tacks

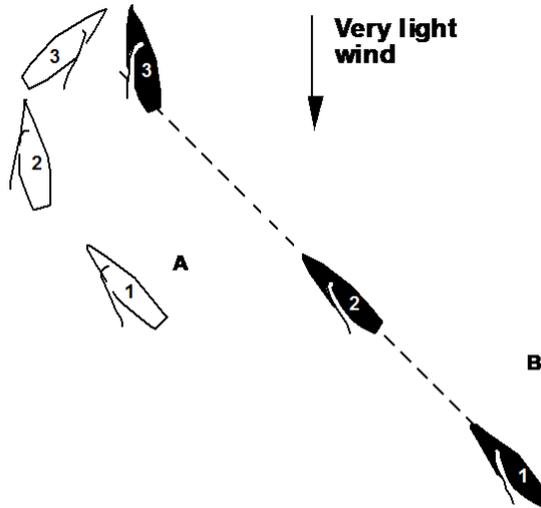
Rule 13, While Tacking

*A boat is on port or starboard tack corresponding to her windward side.
A boat that inadvertently tacks onto port tack ahead of a starboard-tack boat cannot
claim that she is an obstruction, to avoid breaking rule 10.*

Summary of the Facts

Boats A and B were close-hauled on starboard tack in a very light wind. A was to leeward of B and clear ahead by a few boat lengths. A's wind died and she began a turn to starboard, continuing through 90 degrees, with A unable to steer in either direction. B still moving ahead on starboard tack, hailed, "starboard." A informed B of her plight. B altered course to starboard to avoid A. B protested A under rule 10. The protest committee found that A was an obstruction and that rule 10 did not apply, and dismissed the protest.

The protest committee referred its decision to Sail Canada under rule 70.2 for confirmation or correction of its interpretation of the rules.



Decision

By definition, a boat is on a tack corresponding to her windward side. A, having turned 90 degrees through the wind from a close-hauled course on starboard tack, was on port tack but may still have been subject to rule 13. In either case, she was required to keep clear of B, a boat on starboard tack.

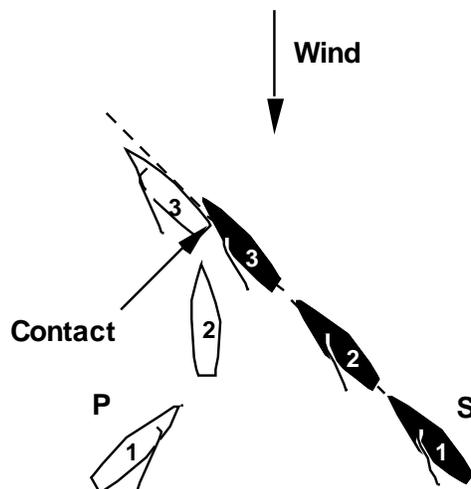
The rules of Part 2 Section C rules govern the rights of boats approaching an obstruction. However, A was not an obstruction to B under the next-to-last sentence of the definition, because B was not required to keep clear of A, and rule 22 did not apply. Thus, the rules of Section C did not apply between A and B. Although the protest committee may have been sympathetic to the plight of A, it should have disqualified A when B protested. The decision of the protest committee is corrected and A is disqualified under rule 10.

1981

APPEAL 52

- Rule 13, While Tacking**
- Rule 14, Avoiding Contact**
- Rule 15, Acquiring Right of Way**

A starboard-tack boat need not anticipate that a port-tack boat will tack so close to her that the tacking boat will not give her room to keep clear when the tack is completed.



Summary of the Facts

P and S were approaching each other close-hauled on a windward leg. S hailed “starboard.” P then completed a tack onto a close-hauled course to leeward and so close to S, that contact occurred almost immediately despite S beginning to alter course to avoid contact. S protested. The protest committee found that S altered course slightly to avoid contact, but that contact occurred between P’s starboard quarter and S’s port bow. It also found that P’s sail had filled before contact occurred. P was disqualified under rule 13. No damage occurred to either boat. P appealed on the grounds that she had completed her tack and that rule 11 applied before contact occurred. She also contended that the contact could have been avoided because S should have anticipated her manoeuvre and taken proper evasive action.

Decision

Prior to and during P’s tack, S was the right-of-way boat. Because P had completed her tack before contact occurred, rule 13 did not apply. But when P acquired the right of way as a leeward boat under rule 11, she did not give S room to keep clear, and P therefore broke rule 15. P’s disqualification is upheld, but for breaking rule 15 rather than rule 13.

S was the right-of-way boat until P had completed her tack and, except as provided by rule 14, she was not required to anticipate that P, the keep-clear boat, would break rule 15. S was therefore not obliged to take evasive action before P’s tack was completed. When S changed course slightly in an attempt to avoid contact, she met her obligation under rule 14. P’s appeal is denied.

1981

APPEAL 53

DELETED (in 2021)

APPEAL 54

Definitions, Proper Course

Rule 11, On the Same Tack, Overlapped

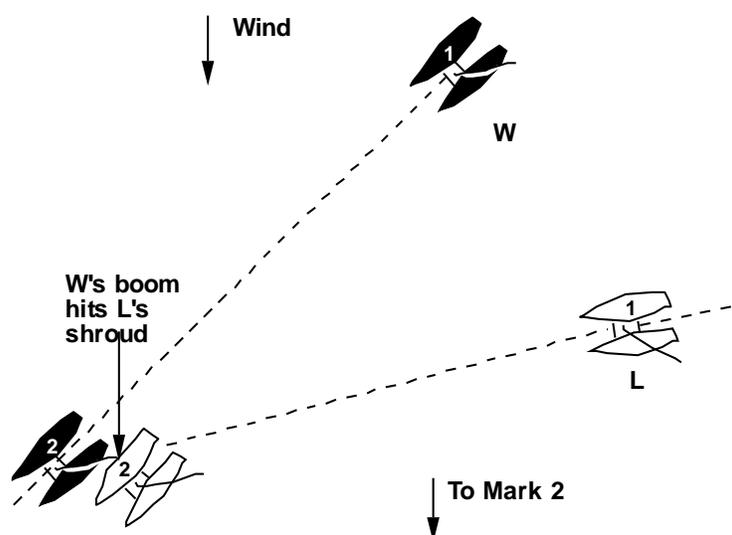
Rule 14, Avoiding Contact

Rule 17, On the Same Tack; Proper Course

Rule 43.1(c), Exoneration

Rule R5, Inadequate Facts; Reopening

A leeward boat which establishes and maintains an overlap more than two boat lengths to leeward is not restricted to sailing no higher than her proper course.



Summary of the Facts

Two catamarans were sailing on starboard tack in a light wind on a downwind leg. L was sailing on a beam reach which she considered the fastest downwind course, and was to leeward of W. W was sailing a course more downwind than L and was converging with L from windward. Both boats held their respective courses. L held her course until contact between the boats became imminent, when she bore away, but W's boom struck L's shroud.

The protest committee recorded only one fact, "that L was sailing above a normal course." The protest committee considered that L's normal course was a direct line to mark 2, which was almost a dead run, and disqualified L under rule 17. W was also disqualified under rule 14. L appealed.

Decision

The protest committee declined repeated requests to supply particulars for the appeal. In particular, it was asked under rule R5 to provide an official diagram, and to comment on the contention of the appellant shown both on the protest form and detailed in the appeal, that:

1. W was overtaking L from clear astern; and
2. L maintained a steady course without luffing during the development of the incident.

The protest committee did not supply the requested official diagram, considered fact 1 as being irrelevant and was unable to advise whether L luffed or not. In the absence of a diagram and meaningful comments, the facts presented on the protest form and supported by L's appeal are accepted.

The protest committee was remiss in not supplying the particulars required by rule R5 and erred in its interpretation of the rules. It is clear from the facts presented on the protest form, which were not contested by the protest committee, that L was maintaining a steady course without luffing. Also, L was sailing a proper course consistent with normal downwind sailing in catamarans and was never clear astern of W.

Rule 17 did not apply to L since she was overlapped with W while she was well over two boat lengths to leeward and therefore was never clear astern when the distance between the boats became two boat lengths apart. Since L was the right-of-way boat, and there was no damage or injury, she was exonerated by rule 43.1(c) for breaking rule 14.

L's appeal is upheld; she is to be reinstated in her finishing place. W is disqualified for breaking rules 11 and 14.

1981

APPEAL 55

Rule 10, On Opposite Tacks

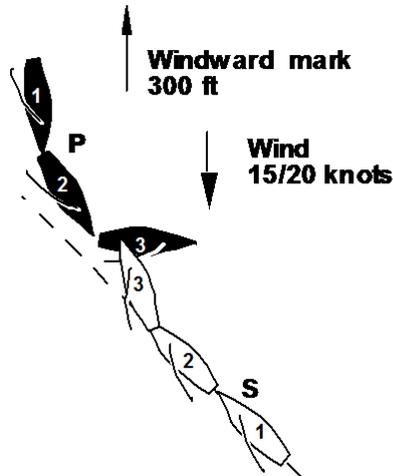
Rule 14, Avoiding Contact

Rule 16.1, Changing Course

A right-of-way boat must avoid contact with another boat whenever reasonably possible. When she has the opportunity to avoid a boat that has already begun to act to keep clear, but she changes course in a manner that does not give the keep-clear boat room to keep clear, she breaks rule 16. When such action makes contact inevitable, she also may be penalized under rule 14 if damage results.

Summary of the Facts

A serious collision occurred between S and P resulting in the sinking of P. Both boats protested; S under rule 10 and P under rules 14 and 16. S was beating towards the windward mark. P was ahead of S, rounded the mark and gybed to port. At the time the boats noticed the potential for a collision they were approximately 90 metres downwind of the mark and four to six boat lengths apart. Sea conditions were rough (approximately one metre) with a wind strength of 15 knots gusting to 20. S hailed "starboard"



but her hail was not heard by P. P began to alter course across S's bow to pass her to windward when P was still two lengths from S. At that point, P's course was already clearing or almost clearing S's course. S, not yet certain that P was keeping clear, luffed to tack to avoid contact. There was now no way for P, who was continuing to luff across S's previous course, to keep clear. A serious collision resulted.

The protest committee found that P had broken rule 10 and disqualified her. It found that S did not break either rule 14 or 16 because her alteration of course was intended to avoid a collision with P, not to prevent P from keeping clear. It therefore dismissed P's protest against S. P appealed.

Decision

P was properly disqualified for breaking rule 10. In the prevailing conditions, she should have acted sooner to keep clear. Once P started to luff across S's bow to pass her to windward, it should have been obvious to S that the only reasonable way to avoid contact with P was either to hold her course or, if she was uncertain that she would clear, to bear away slightly. S had the opportunity to do so. By luffing up to tack, S did not give P room to keep clear and broke rule 16. Her action also made avoidance of contact impossible and serious damage inevitable. S therefore broke rule 14.

P's appeal against her disqualification under rule 10 is denied. Her appeal against the dismissal of her protest against S is upheld. S is disqualified for breaking both rule 14 and rule 16.

1982

APPEAL 56

Definitions, Obstruction

Rule 11, On the Same Tack, Overlapped

Rule 19.2, Room to Pass an Obstruction: Giving Room at an Obstruction

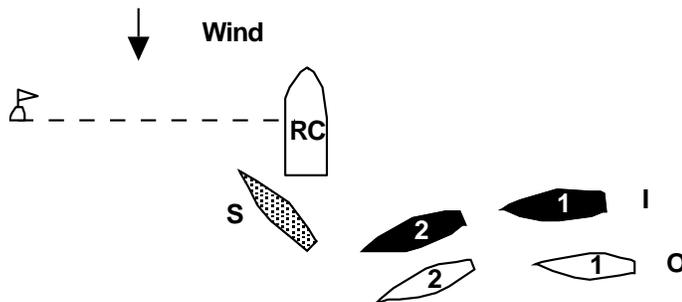
Rule 43.1(b), Exoneration

A right-of-way boat clear ahead is an obstruction to boats clear astern.

When an overlapped right-of-way boat chooses to pass to leeward of the obstruction, she shall give a boat overlapped to windward room to pass between her and the obstruction.

Summary of the Facts

Approximately one-half minute before the start, S, close-hauled on starboard tack, was sailing slowly towards the race committee signal vessel. I and O were sailing towards the starting line, both on a broad reach on starboard tack, and as they approached S, O established a leeward overlap on I. I bore away to pass astern of S and O also bore away to avoid contact with I. No contact occurred. O protested I under rule 11. The protest committee upheld O's protest and disqualified I for breaking rule 11. I appealed.



Decision

S was an obstruction to I. Because O chose to pass S to leeward, rule 19.2(b) required O to give I room to also pass to leeward between S and O. I broke rule 11 when she changed course to leeward and caused O to immediately change course to avoid her. However, since I was sailing within the room to which she was entitled under rule 19.2(b) to pass the obstruction, she was exonerated by rule 43.1(b) at the time of the incident.

Once O had given room to I and I became overlapped to leeward of S, S was no longer an obstruction to I. Rule 11 required S to keep clear of I. I was subject to rule 15 and must initially give S room to keep clear. See World Sailing Cases 41 and 125.

I’s appeal is upheld. The protest committee’s decision to disqualify I is reversed, and the race committee is directed to award I her finishing place.

1982

APPEAL 57

Definitions, Conflict of Interest

Definitions, Finish

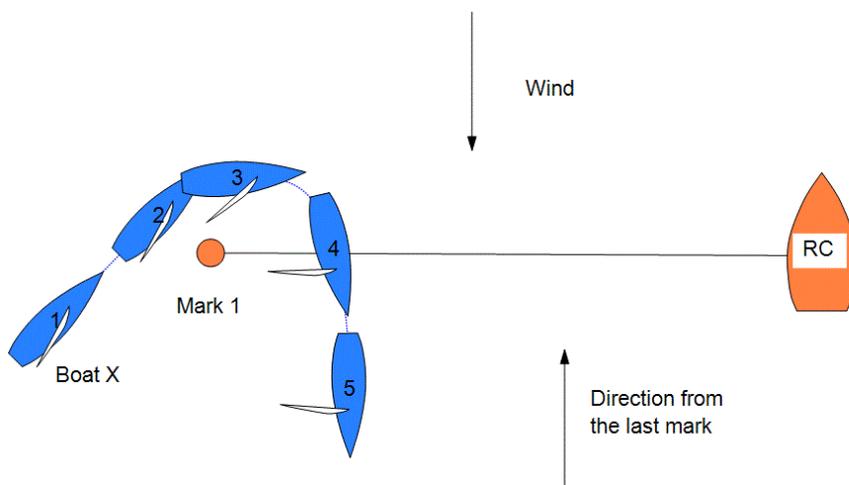
Rule 62.1(a), Redress

Rule 63.4, Hearings: Conflict of Interest

Rule 64.1, Decisions: Standard of Proof, Majority Decisions and Classifying Requests

Rule 70.1, Appeals and Requests to a National Authority

A boat must finish in accordance with the definition. Competitors who have retired from the series may participate on the protest committee. They no longer have a conflict of interest because they have nothing to gain or lose by a protest committee’s decision.



Summary of the Facts

The course was signalled as a triangle, windward, leeward, windward with marks to starboard. When this course had been set on other occasions the race committee finish vessel had been positioned on the port side of mark 1, but on this occasion it was positioned to starboard. X passed the finishing mark to starboard, as shown in the diagram, and sailed across the finishing line from the wrong direction. The race committee called her finish and recorded her time of crossing the finishing line. Another boat, Y, protested that the race committee had erred in awarding a finishing position to X.

The protest committee held an open hearing with spectators, determined that X had not finished in accordance with the definition Finish, and X was therefore scored as DNF. It further decided that X's score in the race was made significantly worse by the action of the race committee, and decided to cancel and re-sail the race. The race was re-sailed that same afternoon. After this decision was reached, a third boat, Z, who was present as a spectator during the proceedings, filed a protest against the protest committee alleging that the hearing was invalid under rule 63.4 because two members of the committee were competitors who had retired from the series. Z's protest was refused by the protest committee. Z appealed.

Decision

A competitor may not protest a race committee but may request redress under rule 62.1(a). The protest committee treated Y's action as such a request under rule 64.1(c) and held a hearing on it. Z was a spectator at the hearing but not a party to it as defined in the rules and, accordingly, had no right of appeal according to rule 70.1.

Z's protest of the protest committee should also have been treated as a request for redress, in this case from the action of the protest committee, and should have been heard, not refused. Z was a party (per the definition) to her request for redress, and could and did appeal the protest committee's refusal to hear it. Although rule 71.2 allows the appeals committee to return the matter to the same or a different protest committee for a hearing, all the facts necessary to decide this appeal are available and are quite clear.

X did not finish in accordance with the definition Finish and was correctly scored DNF by the race committee. If X's score was made worse, it was by her own actions, not by the actions of the race committee, and therefore rule 62.1(a) did not apply. The protest committee was therefore wrong to abandon the race. Competitors (in this instance, the two members of the protest committee) who have retired from a series, do not have a conflict of interest because they have nothing to gain or lose by a protest committee's decision. Rule 63.4 would not exclude them from participating as members of the committee for the hearing.

Z's appeal is upheld. The race committee is directed to reinstate the results of the original race with X scored as DNF as originally decided by the protest committee, and to expunge the results of the re-sailed race from the series.

1982

APPEAL 58

Rule 69.1, Misconduct: Obligation Not to Commit Misconduct; Resolution

Rule 69.2, Misconduct: Action by a Protest Committee

A competitor who moves a mark commits an act of misconduct, regardless of his intent.

Summary of the Facts

After at least one general recall of the start, a competitor asked a RC vessel at the port end of the line to move the port end mark. This request or demand was made at least three times and was accompanied by obscenities. The appellant then picked up and moved the mark. The race was started and completed. The race committee protested the appellant for his conduct.

The protest committee treated the race committee's protest as a report and conducted a hearing under rule 69.2. It found the competitor's conduct was an act of misconduct under rule 69.1(a) as defined in 69.1(b)(1). The competitor was disqualified from the entire series. A suspension from organized racing for a period of one year was recommended to the national authority. The competitor appealed.

Decision

Whether or not the competitor's conduct improved or was intended to improve the starting line, it was indeed an act of misconduct under rule 69.1(a) as defined in rule 69.1(b)(1). The competitor's appeal is denied; his disqualification from the entire series under rule 69.2(h)(2) was appropriate.

The appeal is denied and the decision of the protest committee is upheld.

1982

APPEAL 59

Definitions, Sail the Course

Rule 28.1, Sailing the Race

Rule 32, Shortening or Abandoning After the Start

Rule 61.1, Protest Requirements: Informing the Protestee

Rule 62.1(a), Redress

Rule 63.2, Hearings: Time and Place of the Hearing; Time for Parties to Prepare

Rule 63.6, Hearings: Taking Evidence and Finding Facts

Appendix M, Recommendations for Protest Committees

When the last leg of a shortened course passes by a mark that does not begin, bound or end that leg, that mark has no required side. A hearing that denies due process because of any procedural flaw is invalid.

Summary of the Facts

The specified course was twice around a triangle plus a windward leg. The course was shortened to finish at the end of the sixth leg. In accordance with the sailing instructions the finishing line was set 200 metres beyond the leeward mark. Boats passed on both sides of the leeward mark en route to the finish. The race committee recorded the finishing positions of all boats regardless of which side the leeward mark had been passed. X protested Y, C, D, E and "all other boats not sailing the course" for not passing the leeward mark to port. The protest committee disqualified the above four boats under rule 28.1 with a note that there were other boats but that it had no evidence as to their identity. F, which had originally finished fifth, returned and passed the leeward mark to port, re-crossing the finishing line in 13th position. F sought redress from being recorded in 13th position, which was dismissed. F, D and E appealed.

All the appeals reported that the protest committee did not comply with the protest procedure required by the rules. X made no attempt to inform D and E of the protest as required by rule 61.1(a)(3), either before they finished or at the first reasonable opportunity after they finished, even though there was ample opportunity. This fact was not recorded by the protest committee. The hearing was held without D in attendance because she had not been informed that there was a hearing as required by rule 63.2. E had learned through another source that a hearing was beginning, but was refused a copy of the protest as required by rule 63.2, and the right to ask questions as required by rule 63.6(c). D and E were informed the following day that they had been disqualified without reasons being given, and were still denied a copy of the protest. F sought redress the following day when she found she had been recorded in 13th position. At the hearing, she was informed that a previous protest had determined that the leeward mark was a mark of the course, but she was denied a copy of the protest.

Decision

The above deficiencies in protest committee procedure have been included to emphasise the importance of following the procedures laid down in the rules of Part 5 as recommended in Appendix M. If there had

been any doubt as to the outcome of these appeals, the protest committee would have been instructed to re-hear these protests following the correct procedures.

The sailing instructions stated in part:

SI 12 The finishing line shall be located ... approximately 200 metres beyond a mark of the course if the race is being shortened on that leg.

SI 22 A race may be terminated at any mark of the course: in this case, flag S will be hoisted with two sound signals when the leading boat is within 200 metres of the proposed new finishing line.

Rule 28.1 states that “A boat ... may leave on either side a mark that does not begin, bound or end the leg she is sailing.” In this case, the previous gybe mark began the leg and the finishing line ended it. There were no boundary marks specified. Therefore, there was no required side for the leeward mark. It was not made clear at what point the signal to shorten course had been made, except that it was before the leading boat had reached the leeward mark. The race committee should have ensured that the signal was made in sufficient time so that no boat’s score in the race would be made significantly worse when the leeward mark ceased to have a required side.

All three appeals are upheld and the race committee is directed to reinstate Y, C, D and E in the places in which they crossed the finishing line and to reinstate F in her original finishing place (fifth).

1982

APPEAL 60

Definitions, Start

Rule 30.1, Starting Penalties: I Flag Rule

Rule 62.1(a), Redress

Rule 62.2, Redress

Rule 63.1, Hearings: Requirement for a Hearing

Rule 64.3, Decisions: Decisions on Redress

Rule 90.2, Race Committee; Sailing Instructions; Scoring: Sailing Instructions

Rule A5.1, Scores Determined by the Race Committee

Oral instructions given at a competitors’ meeting ashore have no authority unless they are published as written amendments to the sailing instructions.

Summary of the Facts

The sailing instructions stated that rule 30.1 applied. At the competitors’ meeting before the event, the race committee chairperson stated that the “one minute rule” would apply to all starts without displaying flag I. No amendments to the sailing instructions were posted.

Flag I was not displayed, but about 30 seconds before the start of the first race, the race committee hailed two boats, X and Y, that they were over the line and were subject to the “one minute rule.” Both boats hailed the race committee that the “one minute rule” did not apply; nonetheless, each re-rounded the RC vessel and then started as if flag I had been displayed as required by rules 26 and 30.1.

In the posted results of the race, X was scored DSQ without a hearing, but Y was scored in her finishing place. X filed a protest, claiming that she had started correctly and that she was wrongfully disqualified for not starting correctly. Both boats also requested redress under rule 62.1(a) claiming that rule 30.1 did not apply to the first start because flag I was not displayed and that their finishing positions were made significantly worse by the race committee’s hails before the start.

The protest committee held a hearing, during which it considered X’s protest filing as a request for redress. It verified that X had started correctly, but then dismissed X’s “protest,” ruling that it had been filed late. The protest committee further ruled that the finishing positions of X and Y were not made significantly worse based on the verbal instructions of the race committee chairman at the competitors’ meeting. Both boats appealed.

Decision

Rule 90.2(c) provides that oral instructions, if specifically permitted by the sailing instructions, may be given on the water; nevertheless, in no circumstances are oral changes to the sailing instructions permitted ashore before a race. The oral instructions of the race committee chairman at the competitors' meeting did not alter or amend the written sailing instructions.

X started correctly and was improperly disqualified without a hearing as required by rule 63.1 and A5.1. X's request for a hearing and both boats' requests for redress were delivered promptly after learning of X's disqualification in the posted results. Rule 62.2 provides that the time limit for the boats' requests should have been deemed to commence at that time.

X's and Y's appeals are upheld. The race committee is directed to reinstate X in her finishing place in the race. The race committee's hails about the "one minute rule" before the start of the first race were an improper action which clearly contributed to making the finishing places of both X and Y significantly worse. The race committee should have taken action under rule 60.2(b) to request redress for the boats. However, the race committee was unable to recommend any redress that would be equitable under rule 64.3, and therefore no further redress can be given to X or Y for the race committee's improper actions.

1982

APPEAL 61

Rule 10, On Opposite Tacks

A keep-clear boat that cannot keep clear of a right-of-way boat because of rigging failure is not exonerated on this account for breaking a rule of Part 2.

Summary of the Facts

P was broad reaching on port tack and S on starboard tack. P's crew was repairing a broken diamond stay. S converged on a collision course and hailed, "starboard." P replied that she was unable to gybe. S had to alter course then gybe to avoid a collision. S protested. P was disqualified under rule 10. P appealed.

Decision

P's decision in the circumstances to preserve her mast left her subject to protest for breaking rule 10. P's appeal is denied and the decision of the protest committee is upheld.

1982

APPEAL 62

DELETED (in 2005)

APPEAL 63

Rule 61.1, Protest Requirements: Informing the Protestee

Rule 63.5, Hearings: Validity of the Protest or Request for Redress

For boats greater in length than 6 metres, a protest flag must be perceived to be a flag. The flag must be displayed at the first reasonable opportunity. For a fully-crewed boat, compelling evidence would be required to justify display within minutes, rather than seconds of an incident. Failure to meet these requirements will render a protest invalid.

Summary of the Facts

There was contact with no damage or injury between X and Y in a J/24 class race while rounding the leeward mark. X displayed her protest flag "within ten minutes of the incident;" Y did not fly a flag, but placed a red hat in the rigging. The protest committee ruled that X did not display her flag at the first reasonable opportunity, and that the red hat on Y did not constitute a flag. Both protests were ruled

invalid. X appealed, maintaining that problems caused while clearing away the spinnaker had prevented faster action, and that the time taken was more like five minutes after the incident.

Decision

X's appeal is denied. The purpose of the display of a protest flag is to notify the boat being protested as soon as is reasonably possible after an incident. In her appeal, X stated that verbal notice was given of intention to protest immediately after the incident, but Y claimed in her comments that she did not hear this hail. This is the reason why a visual signal is an essential condition of a valid protest. Rule 61.1(a) requires that the boat shall "conspicuously display a red flag at the first reasonable opportunity." A J/24 with a crew of five would have to provide compelling reasons why her protest flag was not displayed within a very few seconds after an incident. X provided no such reasons; a five-minute delay is completely unacceptable.

World Sailing Case 72 also presents a discussion of the word "flag." A flag must be seen primarily to be a flag.

1983

APPEAL 64 DELETED (in 2021)

APPEAL 65

Rule 64.4, Decisions: Decisions on Protests Concerning Class Rules

Rule 78.1, Compliance with Class Rules; Certificates

When a protest committee is in doubt about the meaning of a measurement rule and refers its question to the authority responsible for interpreting the rule, it shall be bound by the reply of the authority.

Summary of the Facts

X presented her sailboard and daggerboard for measurement at the prescribed measurement time before the regatta but did not have her mast measured.

After all five races of the regatta were completed X shortened her mast by cutting five to six centimetres off of it. She was protested and the protest committee referred the matter under rule 64.4(b) to the authority responsible for interpreting the rule to resolve such questions. The authority determined that X had sailed the regatta with an unmeasured mast which was too long. The protest committee disqualified X from all five races of the national championships.

The manufacturer of the sailboard appealed the decision of the protest committee and sent copies to the media. The manufacturer was informed that it had no standing to appeal. X subsequently appealed.

Decision

X's appeal is denied. The information supplied with the appeal confirmed that X sailed with an unmeasured mast and that X cut it shorter after the regatta. Under rule 64.4(b) it was the responsibility of the protest committee to act on the finding of the measurement authority. The decision to disqualify X was correct.

1983

APPEAL 66

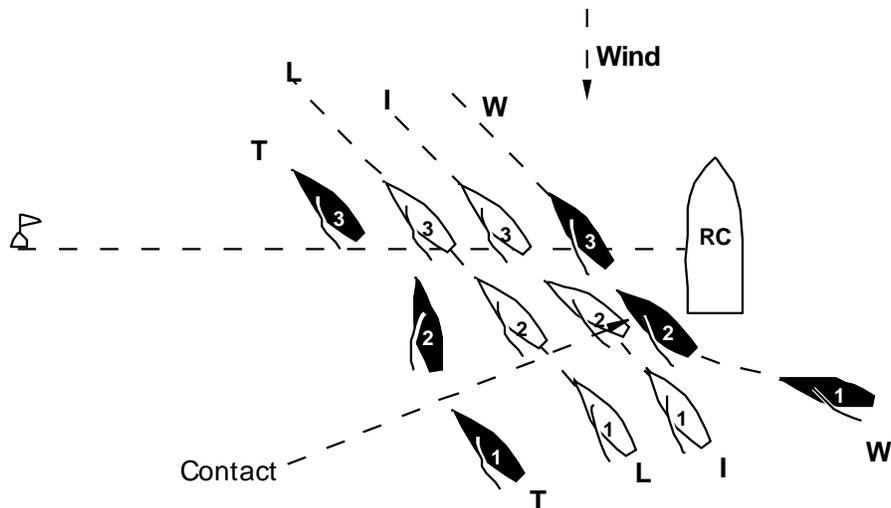
Rule 11, On the Same Tack, Overlapped

Part 2, Section C Preamble, At Marks and Obstructions

Rule 43.1(a), Exoneration

Rule 63.2, Hearings: Time and Place of the Hearing; Time for Parties to Prepare

When protests occur in a group of boats in close proximity with each other, the protest committee should review the protest forms to see if the incidents may be closely related. If so, the committee may hear the protests at a single hearing with all parties present. When a boat breaking a rule has compelled another boat to break a rule, the other boat is exonerated.



Summary of the Facts

The protests resulted from an incident at the start of a race with a group of overlapping boats approaching and crossing the starting line in close proximity to one another as shown in the diagram.

Just prior to the starting signal, T hailed L to head up. As L responded she came in danger of collision with I and was forced to bear away. L protested I under rule 11. I also protested W, stating that she was approaching the starting line on a close-hauled course, and that W sailed between her and the starting mark without sufficient room to do so. Contact occurred between W and I which forced I below close-hauled and prevented I from responding to L's luff.

On the first protest of L against I, the protest committee disqualified I for not keeping clear of L because I did not satisfy the protest committee that she had complied with rule 11.

The second protest of I against W was considered as a separate incident by a different protest committee who decided not to hear the protest on the grounds that I had not complied with all of the requirements of rule 61.1(a). I appealed.

Decision

The protest committee's diagram and I's protest show that this was one incident and, as permitted by rule 63.2, the protests could have been heard together in one hearing once L's protest was found to be valid. Because the boats were approaching a starting mark to start, according to the preamble to the rules of Part 2 Section C, rule 18.2 did not apply. Therefore, W was not entitled to mark-room to sail between I and the RC vessel. I was forced below close-hauled because W was in contact with her windward side and thus prevented her from keeping clear of L.

I's appeal is upheld and W is disqualified under rule 11. I was exonerated by rule 43.1(a) for having been compelled by W to break rule 11. The race committee is directed to reinstate I in her original finishing place.

APPEAL 67
DELETED (in 2021)

APPEAL 68

Rule 42.1, Propulsion: Basic Rule

When running an engine, a boat must take positive action to prevent her propeller from turning.

Summary of the Facts

Just after the start of an evening round-the-buoys cruising class race, X observed that Y had her engine running. X protested.

At the protest hearing, Y admitted that her engine was running but claimed that the gear lever was in neutral and therefore that the propeller shaft was not turning.

The protest committee noted that Y took no positive action to ensure that her propeller shaft was not turning.

The protest committee decided on a balance of probabilities, that Y's propeller shaft was turning, and disqualified Y under rule 42.1. Y appealed.

Decision

Y's appeal is denied. Y was properly disqualified.

1984

APPEAL 69

Rule 62.1(a), Redress

Rule 64.4, Decisions: Decisions on Protests Concerning Class Rules

Rule 70.1, Appeals and Requests to a National Authority

When a protest committee has doubt in a measurement matter and refers it to the qualified authority for an interpretation, it shall be bound by the reply of the authority, even if the protest committee considers the interpretation to be unfair.

Summary of the Facts

X and Y competed in an open regatta on June 9, 1984. Each boat protested the other on the grounds that the other's rating certificate was invalid.

The protest committee determined that prior to May 19, each boat held a valid rating certificate of 28.9 issued by the Lake Ontario Racing Association (LORA). However, the LORA annual meeting in May 1984 approved the adoption of a new method of determining ratings and consequently LORA formally revoked the previous ratings of X and Y and issued each boat with new LORA ratings of 30.0 on May 19 which were in force on June 9.

The owners of X and Y disagreed with the method by which the new ratings were calculated and contended that their new rating certificates were invalid.

The protest committee was in doubt as to the interpretation of the measurement rules. The protest committee therefore deferred its decision on the protest and, acting under rule 64.4(b), referred the matter to the LORA for LORA's answer.

LORA's rating officer attended the reconvened protest hearing on June 21 and, as the qualified authority to rule on LORA ratings, reported that the ratings of the two boats on June 9 were 30.0. He also confirmed that on June 13 LORA had issued a revised certificate with a rating of 29.0 to X and on June 18 it had issued a revised certificate with a rating of 28.9 to Y.

The protest committee reconvened the hearing on July 5 and decided that rule 62.1(a) applied and, acting under rule 64.4(b), directed the race committee to re-determine the results of the race using ratings of 28.9 for both X and Y. The protest committee referred its decision to the Sail Canada appeals committee under rule 70.2 for confirmation or correction of its interpretation.

Decision

Under rule 70.1(a) an appeals committee is restricted to ruling solely on a question of interpretation of the rules.

Because of its doubt regarding the boats' ratings as of June 9, the protest committee was correct in referring the matter to the LORA which was the authority qualified to resolve such questions. However, under rule 64.4(b), the protest committee shall be bound by the reply of the authority. None of the criteria in rule 62.1 applied to this situation and the protest committee was not therefore empowered to give redress to X or Y.

The decision of the protest committee is reversed and the race committee is instructed to recalculate X's and Y's finishing places in the race based on a LORA handicap rating of 30.0 which was their valid rating on the date of the regatta.

1985

APPEAL 70

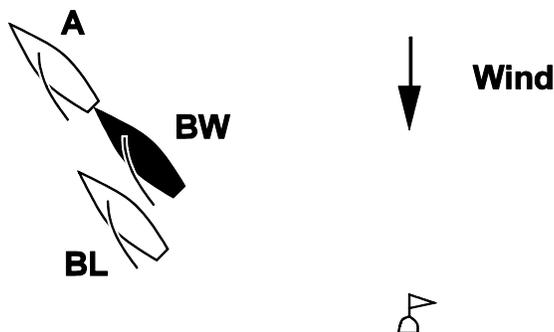
Definitions, Obstruction

Rule 12, On the Same Tack, Not Overlapped

Rule 19.2, Room to Pass an Obstruction: Giving Room at an Obstruction

Rule 43.1(a), Exoneration

When boats are overlapped at an obstruction, including an obstruction that is a right-of-way boat, the outside boat must give the inside boat room to pass between her and the obstruction.



Summary of the Facts

A, BW and BL were sailing close-hauled on starboard tack. A was clear ahead of both BW and BL, who was overlapped to leeward of BW. BW was directly astern of A. BW and BL were overtaking A, and BW hailed BL for room to pass to leeward of A. BL did not bear away to give BW room and contact occurred between BW's bow and A's rudder.

The protest committee decided that BW was a windward boat and was obliged to keep clear of BL under rule 11. Further, under rule 12 BW was obliged to keep clear of A. The protest committee disqualified BW under rule 12. BW appealed.

Decision

BW was initially clear astern of A; therefore, A was a right-of-way boat with respect to BW under rule 12 and therefore an obstruction to BW. Because BW and BL were overtaking A, under rule 19.1, rule 19 applied. BL chose to pass to leeward of A; therefore, BL as the outside boat was required under rule 19.2(b) to give BW room to pass to leeward of A, which BL failed to do. Since contact between BW and A was caused by the failure of BL to give BW room, BW was exonerated by rule 43.1(a) for breaking rules 12 and 14. BW's appeal is upheld and BL is disqualified.

1985

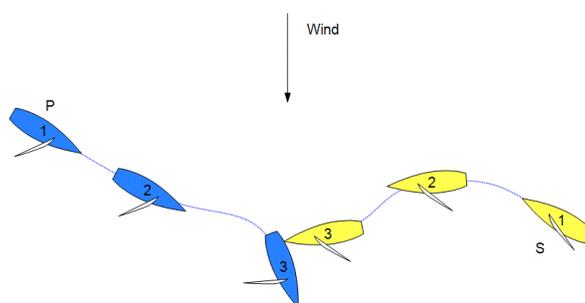
APPEAL 71

Rule 10, On Opposite Tacks

Rule 14, Avoiding Contact

Rule 16.1, Changing Course

Both right-of-way and keep-clear boats must keep a proper look out, particularly during the prestart. Both S and P are disqualified when S continually changes course towards P and P takes no action to avoid contact, causing damage.



Summary of the Facts

About three minutes before their starting signal S and P were sailing in the starting area in a ten knot wind. S and P collided violently. Both protested.

Neither boat saw the other until just before the collision occurred. S, sailing just off the wind, began to bear away in a steady turn approximately 20 seconds before the collision occurred. Witnesses were apprehensive of a collision about ten seconds before it occurred.

P held her course until the last few seconds, at which time S was on a beam reach. At this stage both boats attempted to avoid the collision, S luffed and P bore away. However, both boats' attempts to avoid collision were abortive. S's bow hit P's port gunwale causing damage.

Shouting on both boats began about five seconds before the collision. S altered her helm, as she hailed, but P did not respond until a couple of seconds later.

P was disqualified for breaking rule 10. The protest committee decided that rule 14 did not apply because both boats made a reasonable attempt to avoid a collision. P appealed.

Decision

In position 1, P was keeping clear of S. S then continually changed her course towards P. That neither boat was keeping a proper lookout unreasonably increased the risk of contact, particularly in a starting area during the pre-start.

With respect to S: All the time that S was changing her course, i.e. all the time she was not sailing in a straight line, S was required by rule 16.1 to give P room to keep clear. Until the boats were on a collision course they were keeping clear of each other and S's change in course did not break rule 16.1. However, as soon as S's change in course established a collision course with P, at position 2, S was required to take

positive action to give P room to keep clear. However, S continued to change her course towards P after position 2, which did not give P room to keep clear and made the collision inevitable. That S did not see P is immaterial. S broke rule 16.1. It was reasonably possible for S to avoid contact with P by not bearing away towards P after position 2; therefore, S also broke rule 14. Although S was the right-of-way boat, she was not exonerated by rule 43.1(c) for breaking rule 14 because the contact resulted in damage.

With respect to P: As soon as the two boats came onto a collision course at position 2, rule 10 required P to begin to take positive action to keep clear. However, because P was not keeping a proper lookout and did not see S, P did not then begin to keep clear but delayed any change in her course until after S's hail. When P did change course just before position 3, it was to try and minimize a collision which by then was unavoidable. P did not try to keep clear when required and therefore broke rule 10. It was reasonably possible for P to have avoided contact with S, by luffing above S's course; therefore, P also broke rule 14.

P's appeal is denied. Both boats are disqualified; S for breaking rules 14 and 16.1, and P for breaking rules 10 and 14.

1986

APPEAL 72

Rule 62.1(a), Redress

Unless provision is made in the notice of race or sailing instructions, breakdown of a chartered boat does not provide grounds for consideration of redress.

Summary of the Facts

A chartered boat failed to start a race within five minutes following the starting signal. The sailing instructions prescribed that "a boat shall not start later than five minutes after her starting signal" and the boat was therefore scored as DNS. The boat was not in the starting area because of an equipment failure; she requested redress and asked for breakdown points. Neither the notice of race nor sailing instructions contained a provision for breakdown points for chartered boats and so redress was not given.

The boat appealed on the grounds that the regatta organizers were responsible for the maintenance of chartered boats. Support for such grounds was the report that an earlier race had been postponed so that repairs on a boat might be completed by a regatta assistant.

Decision

Neither the notice of race nor sailing instructions made any provisions relieving charterers of the responsibility for the maintenance of their boats. The race committee noted in its comments that the postponement in a previous race cited by the appellant was in response to changes in wind direction and was not made to permit the completion of repairs to a competing boat. The entry form for the regatta included a waiver of liability signed by all participants, by which each entrant assumed sole responsibility for their boat. No distinction was made between charterers and those who competed in their own boat. There was no omission by the organizing authority; therefore, there was no basis under rule 62.1(a) for considering redress.

The appeal is denied.

1986

APPEAL 73

DELETED (in 2013)

APPEAL 74

Definitions, Sail the Course

Rule 28.1, Sailing the Race

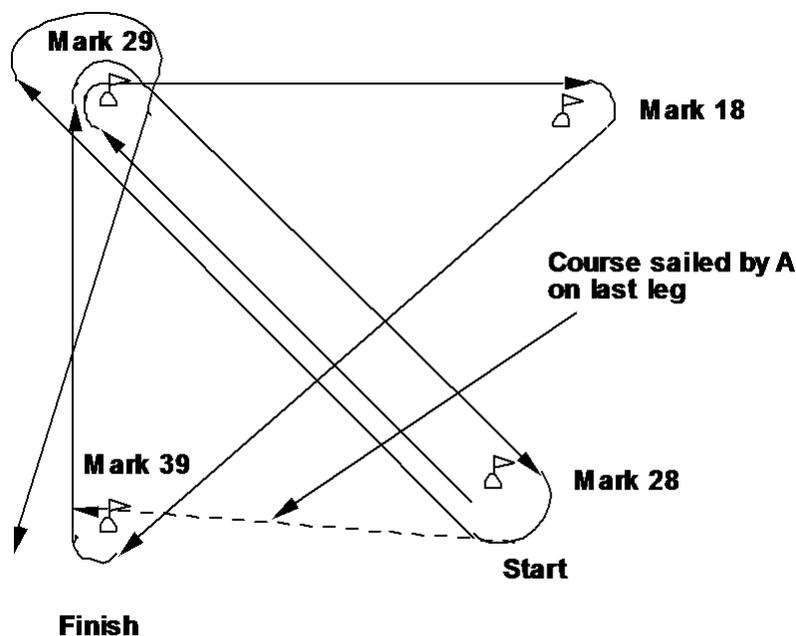
Rule 62.1(a), Redress

Rule 63.1, Hearings: Requirement for a Hearing

Rule 64.3, Decisions: Decisions on Redress

Rule A5.1, Scores Determined by the Race Committee

Sailing instructions should be written and courses designated to ensure that there is clear distinction between rounding marks and passing marks. A protest hearing and decision must be limited to the particular incident that has been described in the protest.



Summary of the Facts

The sailing instructions stated that “course signals will be displayed from the committee boat by showing the numbers of the marks of the course in order. Numbers displayed on a green background are to be left to starboard; those on a red background are to be left to port.” A chart, the relevant part of which is illustrated, was also included with the sailing instructions.

The committee boat was stationed at mark 28 for the start and signalled the following course: 29G, 18G, 39G, 29G, 28G, 29G, 39R.

The majority of the fleet sailed the posted course making a 270-degree loop around mark 29 when it was the penultimate mark of the course. One boat, A, decided that 29G was a passing mark and, when lying in sixth position at mark 28, sailed directly from Mark 28 to the finishing line, leaving Mark 29 to starboard and crossing the finishing line in first position in her class. The race committee did not record A’s finishing time but scored her as NSC (did not sail the course).

A requested redress against her NSC score, maintaining that she had sailed the posted course. She argued that, if Mark 29 was to be rounded the race committee should have displayed 29R and not 29G. If mark 29 was a turning mark, the course would have required the fleet to make a loop around mark 29. The protest committee did not give redress, and confirmed her score of NSC because she had not sailed the course which was intended by the race committee.

A appealed and with its comments the race committee asked for clarification of the meaning of “rounding” and “passing” marks.

Decision

The race committee made two errors in the conduct of this race, which were as follows:

1. ROUNDING AND PASSING MARKS

The definition Sail the Course requires that a string representing a boat’s track when drawn taut pass each mark of the course on the required side and in the correct order and touch each mark designated in the sailing instructions to be a rounding mark. The race committee did not define whether the displayed course marks were rounding or passing marks, thus leaving the course designation ambiguous.

Ambiguities between rounding and passing marks may be eliminated in sailing instructions that read “numbers displayed on a green background are to be rounded to starboard; those ...”

2. LOOPING MARKS

Race committees should never set courses so that the taut string in the definition crosses over itself at any rounding mark since this would put boats in the same or different races at unnecessary hazard with each other in their rounding manoeuvres.

In the redress hearing the protest committee failed to address the improper actions of the race committee, and redress was not given. This was an omission of the protest committee under rule 62.1(a).

A’s appeal is upheld. A is to be reinstated in her finishing place and the results of the race are to be adjusted accordingly.

1988

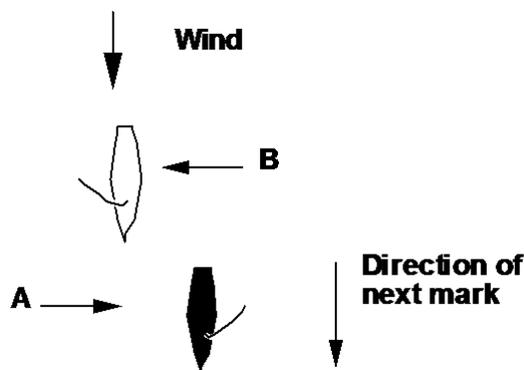
APPEAL 75

Rule 10, On Opposite Tacks

Rule 14, Avoiding Contact

Rule 63.6, Hearings: Taking Evidence and Finding Facts

A protest committee must arrive at a single set of facts in an incident.



Summary of the Facts

Contact occurred between two boats on a downwind leg resulted in gelcoat damage and both boats protested. A’s protest stated that she was on starboard tack and being overtaken by B who was on port and that a collision occurred between the two boats when B failed to keep clear. B’s protest stated that both boats were on port tack, that B was clear ahead and that A was overtaking B to windward and A did not keep clear when B luffed.

Both protests were heard together since it was single incident. To avoid having to reconcile the different descriptions, the protest committee ruled on each protest independently, disqualifying B in the first protest under rule 17 and A in the second protest under rule 16. B appealed.

In its comments on the appeal, the protest committee confirmed that a single incident had occurred and that the diagram of protest 1, shown above, represented the official diagram. The chairman of the protest committee also subsequently confirmed that the damage to the boats consisted of a scrape along the starboard quarter of A and gelcoat damage to the port bow/pulpit area of B.

Decision

B's appeal is denied. Under rule 63.6, a protest committee shall establish the facts pertaining to an incident and only one set of facts can be established for one incident. The protest committee was correct in disqualifying B in protest 1 based on the facts the protest committee found and the official diagram endorsed by the protest committee, but this should have been under rule 10, not rule 17 because the boats were on opposite tacks. The protest committee was incorrect in considering protest 2 in isolation from protest 1. The protest committee was wrong to disqualify A since there was only one set of facts applicable to the incident. In addition, it is clear from the diagram that B, the keep-clear boat, collided with A causing damage. When it was clear that B was not keeping clear of her, it was not reasonably possible for A, the right-of-way boat, to avoid contact with B; therefore, A did not break rule 14. It was reasonably possible for B to have avoided contact with A; therefore, B broke rule 14.

B is disqualified under rules 10 and 14 and A's disqualification is set aside.

1988

APPEAL 76

Rule 41, Outside Help

*Radio communications do not necessarily constitute outside help,
but a boat which engages in them risks breaking rule 41.*

Summary of the Facts

X and Y were competing in a 68-mile race, with Y reaching in a 16 knot breeze and clear weather, about six nautical miles from the mark ending the first leg. Y was called on VHF channel 9, the working channel of the race committee, by a cruising boat C, which had crossed the lake a few hours earlier. C was 15 miles away from the course on which Y, X and the other boats were racing.

A general radio conversation between C and Y, initiated by C, then ensued. C described the weather conditions during her crossing, her current local weather conditions and the public weather forecast which both boats had heard. X monitored the conversation and protested Y for breaking class rules and rule 41.

The protest was dismissed. The protest committee found that the cruising class rules did not prohibit the use of VHF radio for the race and that the exchange of information regarding conditions at C's location was not of assistance to Y.

X appealed. She alleged that Y intended to receive information which may have helped her final position in the race. She further stated that "the protest committee found as a fact that outside assistance was clearly solicited and obtained."

Decision

A boat breaks rule 41 when she receives outside help except in the circumstances set out in the rule. Information that is freely available to all boats is permitted by rule 41(c), and unsolicited information from a disinterested source, which may be another boat in the same race, is permitted by rule 41(d). World Sailing Case 100 finds that an answer in reply to a specific question is advice and outside help. The fact that it is broadcast on a public frequency is irrelevant. Intent is not an element of rule 41.

The protest committee did not establish as fact that Y asked for or received advice. The positions of Y and C, the initiation of the radio call by C and the contents of the conversation were all facts found by the protest committee. The protest committee’s conclusion that the conversation was not of assistance to Y was deduced from the facts.

Under rule 71.2, an appeals committee may change or reverse a protest committee’s decision only when it is not supported by the facts it found or is based on an erroneous interpretation of a rule. The protest committee properly interpreted the rule and its decision (based on its conclusion) was supported by the facts. The unequivocal “not of assistance” conclusion of the protest committee was diametrically misrepresented by X in her appeal. The observations of the protest committee contradict X. It stated that after hearing the parties and C, the protest committee found that C’s call was not pre-arranged and could not possibly have benefited Y. In its comments on the appeal, the protest committee indicated that the evidence was that Y tried to steer the conversation to “safe topics.”

Even radio transmissions freely available to all boats are quite capable of breaking rule 41 when advice is given in response to a specific question. Boats engaging in radio conversations while racing do so at their own peril in terms of rule 41. Y would have been well advised to tell C immediately that she could not talk to her during the race. However, it is for the protest committee to decide each case on its merits. In this instance the protest committee was definite in its decision that the VHF conversation was of no assistance to Y.

X’s appeal is denied. Her protest was properly dismissed.

Also see World Sailing Case 100.

1989

APPEAL 77

DELETED (in 2013)

APPEAL 78

DELETED (in 2021)

APPEAL 79

Rule 26, Starting Races

Rule 62.1(a), Redress

Rule 63.1, Hearings: Requirement for a Hearing

Rule 70.2, Appeals and Requests to a National Authority

Rule 90.3, Race Committee; Sailing Instructions; Scoring: Scoring

Rule A5.1, Scores Determined by the Race Committee

The visual and sound signals made by the race committee determine the starting times of a race, not the scheduled times published in the sailing instructions. A hearing is not required for the race committee to correct its error in scoring. Boats may request redress when they believe the race committee has acted improperly.

Summary of the Facts

In a multi-start regatta, the starting signal for the class in question was scheduled for 1155 hours but the overall starting sequence was running five minutes later than the posted times. The sound signals for the warning, preparatory and start for this class were made with the display of numeral pennants 4, 5 and 6, respectively, in accordance with the sailing instructions.

The race committee's race record sheets showed that all but one of the boats in this class started on their preparatory signal at 1155 hours. Unfortunately, when the preliminary race results were calculated in the sailing office, the OCS notations were disregarded and the boats were scored in the positions in which they crossed the finishing line. These preliminary results were not posted on the official notice board but were made available to some of the fleet.

X protested all of the other boats under rule 26 and the sailing instructions, stating that she was the only boat that had started and sailed the course in accordance with the sailing instructions.

The protest committee found that these facts were correct and that the race records correctly noted the OCS boats. The protest committee directed that the race committee's scoring error be corrected accordingly.

Y then requested redress on the basis that she had started at the time in the sailing instructions. Redress was not given since the race record sheets showed that Y had crossed the starting line shortly after her preparatory signal was made and had not returned to start correctly after her starting signal.

C and D then requested that the protest hearing be reopened on the basis that they had been disqualified by the protest committee without being present and that the race committee had made an error in not starting the race at the published time. This error had made their finishing positions significantly worse.

The protest committee met to consider whether there were grounds under rule 66 to reopen the protest hearing. The protest committee decided that there were not grounds and did not reopen the hearing. The protest committee referred its decision to the appeals committee under rule 70.2 for confirmation or correction of its decision.

Decision

The race committee recorded that all boats in the race, except X, started prior to their starting signal. The protest committee acted correctly in directing that the scoring be corrected for the error in not transcribing the OCS notations from the race record sheets. This correction was made in accordance with rule 90.3(c), and was not a penalty imposed under rule 64.2. Rule A5.1 is an exception to rule 63.1, and therefore a hearing is not required for a race committee to score boats OCS.

The facts showed that the starting sequence was running five minutes later than the times published in the sailing instructions. However, this did not make the finishing places of the premature starters significantly worse, because rule 26 makes it clear that times shall be taken from the visual signals.

It is the responsibility of each boat, particularly in a sequence of starts, to observe the starting signals for her own start. The premature starters did not do this, and if their finishing place was made significantly worse, it was by their own actions. The only recourse for a boat scored DNS or OCS is a request for redress under rule 62.1(a), that can only be successful if it can be shown that the race committee made an error, which in this case, it did not.

The decision of the protest committee is confirmed.

1989

APPEAL 80

DELETED (in 2021)

APPEAL 81

DELETED (in 2021)

APPEAL 82

Rule 66, Reopening a Hearing

Rule R5, Inadequate Facts; Reopening

An interpretation of the starting area.

Summary of the Facts

In a multi-class regatta, paragraph 11.4 of the sailing instructions read as follows: “Boats whose preparatory signal has not been made shall keep clear of the starting area and of all boats whose preparatory signal has been made.”

The Laser II class started ahead of the Laser class. After the Laser II preparatory signal, Lasers X, Y, C and D were observed by the race committee to be in the vicinity of the starting line. The race committee entered a protest against them for breaking SI 11.4. The protest committee recorded the above statement of the race committee as “facts found” and disqualified the four Lasers. The next day, X requested that the protest be reopened on the basis that the starting area had not been adequately described in the sailing instructions. This request for reopening was denied because there was no evidence that the protest committee made a significant error, nor was any significant new evidence presented. X and Y appealed.

Decision

Because the sailing instructions did not precisely define the starting area, and the facts found recorded on the protest form amounted to a conclusion rather than fact as to the actual location of the boats in relation to the starting line, the appeals committee requested further information from the protest committee under rule R5.

It was considered necessary to establish whether the protest form contained all the facts found or if additional facts were found at the hearing that were not recorded. The chairman of the protest committee supplied a more detailed description of the facts found, taken from his notes of the hearing. These showed that two minutes before the start for the Laser IIs, all four Lasers were on or within three boat lengths of the starting line.

Another member of the protest committee supplied a separate set of notes taken at the hearing. These notes recorded the evidence presented at the hearing and confirmed the information supplied from the protest chairman’s notes. These notes also gave a summary of the protest committee’s discussion before reaching its decision.

The comments and notes by two members of the protest committee showed clearly that there were extensive facts found during the hearing that had not been recorded on the protest form. The notes show that all four Lasers were physically on or very close to the starting line after the Laser II preparatory signal and that C was very close to windward of several Laser IIs as they were manoeuvring for their start.

The notes also show that when announcing the decision to the protestees, the chairman of the protest committee emphasized that whatever doubt there might be about the exact perimeter of the starting area, it would necessarily include the starting line and the area immediately around the RC signal vessel.

The appeals committee concludes on a balance of probabilities that the four Lasers broke SI 11.4 under any reasonable definition of a starting area and that C actually interfered with Laser IIs. Appeal denied.

1993

APPEAL 83

Adopted as World Sailing Case 87

APPEAL 84

DELETED (in 2021)

APPEAL 85
DELETED (in 2010)

APPEAL 86
DELETED (in 2021)

APPEAL 87

Race Signals, Changing the Next Leg
Definitions, Sail the Course
Rule 28.1, Sailing the Race
Rule 33, Changing the Next Leg of the Course
Rule 62.1(a), Redress

A boat must sail a changed course when it is signalled by the race committee.

Summary of the Facts

Snipe X protested six other Snipes, alleging that they had not sailed the correct course. The protest committee established that the race committee signalled a change of course for all classes at a leeward mark. The Albacore, Europe, 470 and Snipe classes were all sailing the same course. The change of course was signalled by a RC vessel that displayed two course boards, each marked with the compass course to the new windward mark, while making a succession of short sound signals in accordance with the sailing instructions and rule 33.

The course change was signalled as the first Snipe approached the leeward mark at the end of its first triangle. At that time, the leading boats in the Albacore and 470 fleets were also approaching the leeward mark but, because of the effect of staggered starting times, these two classes were rounding this mark for the second time, prior to their last beat to the finishing line.

X did not sail the newly signalled course but, in company with two other Snipes, sailed to and rounded the original windward mark. The six Snipes that were protested by X sailed to and rounded the new windward mark.

The protest committee disqualified X and the other two Snipes that sailed to the old windward mark, under rule 28 for not sailing the correct course. After hearing the decision, X lodged a request that the hearing be reopened on the basis that flag C was not displayed by the RC vessel that signalled the change of course.

The protest committee found that this request contained no material new evidence. Furthermore, the protest committee found that the evidence established at the original hearing showed that the race committee had complied with the sailing instructions. The request for reopening was denied. X appealed.

Decision

There may have been some confusion as to whether flag C was displayed by the RC vessel or not. The only question is therefore, whether the lack of display of a C flag, if indeed it was lacking, made X's finishing place significantly worse under rule 62.1. It is clear from the text of the appellant's protest form that it did not.

The first paragraph of the original protest form read: "As the first-place Snipe approached the leeward mark at the end of the first triangle, a change of course was being signalled for the final leg."

It is clear that X knew that a change of course was being signalled. X's confusion arose because she assumed that the change of course signal applied only to the classes who were about to sail their final leg and did not apply to the Snipes, who were about to sail their second windward leg. X was mistaken in her assumption, and her score was made worse by her own misunderstanding of rule 33 and her failure to sail the course.

X's appeal is denied.

1995

APPEAL 88

Rule 61.1, Protest Requirements: Informing the Protestee

A boat with multiple crew is not relieved from the requirement to display a protest flag as soon as reasonably possible if a problem aboard does not put the boat and its crew in danger.

Summary of the Facts

Just after the start in a race for cruising class boats greater than 6 metres in length, X on port tack was crossing Y on starboard tack. Y bore away and hailed "starboard" but flew a protest flag approximately five minutes later. X saw Y's protest flag as the boats approached the first windward mark. Y stated that the protest flag was stowed below and that the crew member who went to get it found that there was water on the cabin sole due to a leak from some plumbing repairs to a sink. The crew stopped the flow of water and pumped the bilge to check that no more water was coming into the boat before returning and displaying the protest flag. This accounted for the five-minute delay in displaying the protest flag. The protest committee decided that the protest flag was flown at the first reasonable opportunity. It heard the protest and disqualified X under rule 10. X appealed.

Decision

A delay of approximately five minutes in displaying a protest flag on a boat with a multiple crew and in no immediate peril of sinking does not comply with the requirement of rule 61.1(a) that the flag be conspicuously displayed at the first reasonable opportunity. After such a delay, the flag did not clearly relate to the earlier incident and was too late for X to comply with rule 44.2.

The requirement in rule 61.1(a) that a protest flag be displayed at the first reasonable opportunity implies that the flag shall be available for use without undue delay. In a multiple-crewed boat, the crew member sent for the flag could easily have alerted other crew to the water problem while taking the few seconds needed to display the flag as a first priority. The appeal is upheld. Y's protest was invalid and X's disqualification is set aside.

1995

APPEAL 89

DELETED (in 2021)

APPEAL 90

Rule 12, On the Same Tack, Not Overlapped

Rule 13, While Tacking

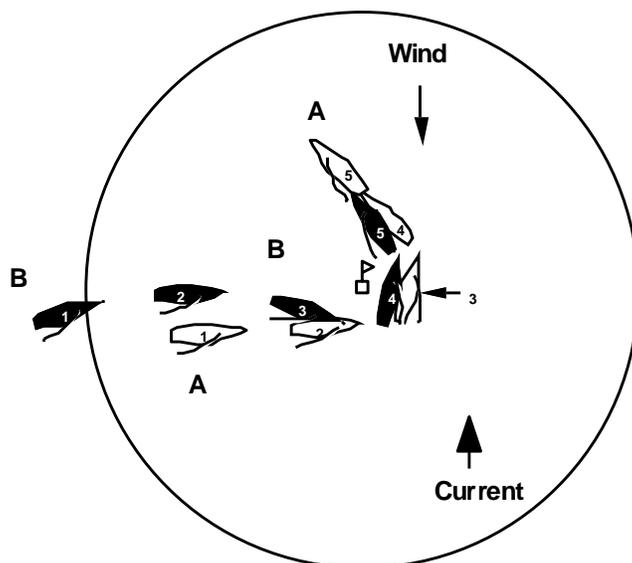
Rule 14, Avoiding Contact

Rule 16.1, Changing Course

Rule 18.2(b), Mark-Room: Giving Mark-Room

Rule 18.2(d), Mark-Room: Giving Mark-Room

*Once a boat passes head to wind in the zone, rule 18.2(b) no longer applies.
If a boat clear ahead passes head to wind and is then keeping clear, the boat astern may not change her course unless she gives the tacking boat room to keep clear. Thereafter, when the boat astern passes head to wind she shall herself keep clear of the boat ahead.*



Summary of the Facts

Both boats were close reaching towards a mark to be left to port. A was clear ahead of B by about one boat length when A entered the zone. When A reached position 3 she headed up in order to tack and B was clear astern. Between positions 3 and 4, A was tacking and B was heading up from a close reach towards head to wind.

At position 4, A had just assumed a close-hauled course on starboard tack and, at that moment, B was approximately one metre to leeward of her and, as B continued her turn through head to wind, B came onto a collision course with A, who was then on starboard tack.

At position 5, B had turned past head to wind but was not yet on a close-hauled course on starboard tack when contact occurred. The contact resulted in damage. The protest committee disqualified B under rule 13.

B appealed to Sail Canada. Sail Canada delegated the appeal to the Pacific International Yachting Association (PIYA) appeals committee.

Decision of the Pacific International Yachting Association Appeals Committee

From the time the boats were in position 1 until they reached position 3, B was required by rule 12 to keep clear of A and by rule 18.2(b) to give her mark-room. She kept clear during that time and no rules were broken.

Between positions 3 and 4, A was tacking and B was heading up from a close reach to head to wind. As soon as A turned past head to wind, rule 13 applied and rule 18.2(d) indicated that rule 18.2(b) no longer

applied. While rule 13 applied to A, B was the right-of-way boat and was subject to rule 16.1. Rule 16.1 applied to B's course change made between the time that A turned past head to wind and the time A assumed a close-hauled course on starboard tack at position 4. During that time, B was required to give A room to keep clear, which she did.

At position 4, A had just assumed a close-hauled course on starboard tack and, at that moment, B was approximately one metre to leeward of her and, as B continued her turn through head to wind, B came onto a collision course with A, who was then the right-of-way, starboard-tack boat.

At position 5, B had turned past head to wind but was not yet on a close-hauled course on starboard tack. Hence, at position 5, when contact occurred rule 13 required B to keep clear of A, which she did not do. B broke rule 13 at position 5.

The contact resulted in damage. B could have avoided that damage either by stopping her turn at position 4 and passing astern of A or by keeping clear while completing her tack into the space available. She did neither. It was not reasonably possible for A to have avoided the contact when B continued her turn after position 4. Hence, B broke rule 14, and A did not.

The PIYA appeals committee upheld the protest committee's decision disqualifying B. However, it decided that the disqualification of B was for breaking rules 13 and 14.

Decision of the Sail Canada Appeals Committee

B's appeal is denied. The decision of the PIYA appeals committee upholding the disqualification of B correctly applies the rules to the facts and is upheld.

2004-3

APPEAL 91

DELETED (in 2010)

APPEAL 92

DELETED (in 2021)

APPEAL 93

DELETED (in 2010)

APPEAL 94

DELETED (in 2021)

APPEAL 95

Rule 64.4, Decisions: Decisions on Protests Concerning Class Rules

Rule 70.1, Appeals and Requests to a National Authority

A matter may not be referred to a national authority for appeal unless it has been the subject of a protest hearing in which the appellant was a party. Administrative appeals within the context of class rules or a measurement or performance handicap system, are within the purview of the organization issuing the certificate.

Summary of the Facts

A cruiser-racer was assigned a performance handicap by a district PHRF handicapping committee. The owner was dissatisfied with the assigned handicap and appealed to the central council of the regional handicapping authority, as per the "grievance" bylaws of the regional PHRF authority, of which the

district was a member. The appeal was denied on the basis that the assigned handicap was appropriate. The owner then requested permission of the central council to make a further appeal to US PHRF, who required such permission to be granted before an appeal would be considered. The central council refused such permission, but did request that the district handicapping make a particular point of re-examining the appellant's boat's handicap at season's end, per usual practice.

The owner then appealed to Sail Canada, contending that the central committee was "denying due process by blocking an appeal to PHRF's senior-level rating appeals committee, the committee-of-record continent-wide for rating appeals under the PHRF Handicapping System." The appellant continued that, "This denial is procedurally improper and contravenes natural justice." The appellant also noted that the regional handicapping authority was a member of US PHRF.

Decision

Rule 70.1 provides for the appeal of a protest committee's interpretation of a rule or its procedures. Part (d) of the definition Rule in *The Racing Rules of Sailing* for a boat racing under a handicap or rating system considers the rules of that system "class rules." A national authority may properly consider appeals of measurement protests. The appeal is refused and cannot be heard, since the owner was not a party to a hearing held by a protest committee as required by rule 70.1.

2005

APPEAL 96

DELETED (in 2010)

APPEAL 97

Rule 29.1, Recalls: Individual Recall

Rule 30.1, Starting Penalties: I Flag Rule

Rule 62.1(a), Redress

Rule 63.6, Hearings: Taking Evidence and Finding Facts

Rule 64.1, Decisions: Standard of Proof, Majority Decisions and Reclassifying Requests

A race committee must monitor boats that have a starting penalty and record if they exonerate themselves by restarting correctly. When the evidence in a hearing is inconsistent, the protest committee shall weigh the evidence and make its decision based on a balance of probabilities unless the rule has a different standard of proof.

Summary of the Facts

At the start of a race, flag I was displayed as the preparatory signal. The race committee identified four boats on course side during the one minute before the starting signal. Flag X was displayed with one sound signal. The race committee recorded the numbers of the four boats. No members of the race committee, either on the signal vessel or the pin vessel, reported seeing any of the four boats return to start. The race committee scored all four boats as OCS.

Y requested redress stating that she realized she was over the starting line before the starting signal, bore away and exonerated herself by rounding the pin to start correctly.

The protest committee found the following facts:

1. Y crossed the starting line before the starting signal;
2. The race committee signalled an individual recall with flag X and 1 sound;
3. Y knew she was a premature starter and saw flag X;
4. The race committee recorded her OCS. RC signal boat confirmed with pin and recorders that Y was OCS. No race committee member saw her round an end. She was scored OCS.

The protest committee made the following conclusions: Y had not provided adequate evidence that she rounded an end and started; and there was no improper action or omission by the race committee. The protest committee denied the request for redress.

Y appealed.

Additional Facts Found

In their comments on the appeal, the chairman and a member of the protest committee, and the principal race officer subsequently confirmed the following additional facts:

5. The race committee comprised the principal race officer, two recorders and a line judge on the signal vessel, and an operator and an observer on the pin vessel who “was aware that he should watch the line;”
6. Members of the race committee properly checked and recorded boats that were over at the starting signal. However, no member of the race committee was assigned the responsibility of checking and recording OCS boats to see if they returned to exonerate themselves and thereafter to start; and
7. Two of the witnesses from other boats said that they each saw Y bear away after the starting signal and sail in the opposite direction toward the extension of the starting line.

Decision

The appeals committee notes these responsibilities of the race committee and boats when rules 29.1 and 30.1 are in effect:

- It is the responsibility of the race committee to check the line and its extensions before and at the starting signal and to signal and record any boats that are OCS. Its further responsibility is to check the line and its extensions after the starting signal and to record if and when boats that are signalled OCS exonerate themselves and start correctly, finally removing flag X as appropriate.
- It is the responsibility of boats that are OCS to observe their recall signal and exonerate themselves before starting.

Y stated that she fulfilled her responsibility by noting the recall signal and restarting. Two witnesses from other boats saw Y bear away after the starting signal and sail in the opposite direction toward the extension of the starting line.

The race committee fulfilled its responsibility to signal Y when she was OCS, but did not fulfil its responsibility to watch the line and the extensions after the starting signal and to record if and when boats that were signalled OCS exonerated themselves and started correctly.

There is a considerable difference in the answer to the question “Did any OCS boats come back?” between: a collective “We did not see any boat come back;” and a personal “I observed the boat for a period of time after she was identified as OCS and she did not come back by crossing the extensions of the line.”

Rule 63.6(d) requires the protest committee to give the weight it considers appropriate to the evidence presented in finding the facts. The evidence of Y and her two witnesses that is consistent with Y returning to restart merits more weight than the evidence of the race committee that it did not have a member assigned to check for any boat that returned to restart. On a balance of probabilities, Y complied with rule 30.1 by sailing across an extension of the line to the pre-start side and re-starting, and the race committee did not observe this action.

The race committee therefore erred in its decision to score Y as OCS and the protest committee erred in both its conclusions and its decision. The requirements for redress in rule 62.1(a) have been met.

The appeal is upheld. The decision of the protest committee is reversed under rule 62.1(a) the request for redress by Y is upheld and the race committee is directed to score Y in her finishing place in the race. Since this was a qualifying regatta, the organizing authority is directed to send the corrected scores to Sail Canada.

World Sailing Case 136 refers.

2005

APPEAL 98
DELETED (in 2013)

APPEAL 99

Rule 63.2, Hearings: Time and Place of the Hearing; Time for Parties to Prepare

Rule 63.3, Hearings: Right to be Present

Rule 66.2, Reopening a Hearing

Rule M4.2, Reopening a Hearing (rule 66)

A protest committee may proceed with a hearing if a party to the hearing is not present, providing that the parties have been properly notified of the time and place of the hearing. A hearing may be reopened if new evidence becomes available within a reasonable time. The evidence that would have been given by a party that failed to attend the hearing does not qualify as new evidence.

Summary of the Facts

At or near the start of a race there was an incident between L and W in which contact with damage occurred. W protested L. The notice of protest was properly posted in accordance with the sailing instructions to inform the parties of the time and place of the hearing. After several attempts to contact L, she failed to attend the hearing. The protest was heard and the decision was to disqualify W for breaking rules 11 and 18.2(a) and to disqualify L for breaking rule 14.

Five days after the hearing L requested a reopening. L claimed she was not aware of the protest, returning after the race to her slip some distance from the regatta site, and she was not notified of the hearing. Her “new” evidence was that she disagreed with the facts found and the diagram, and presented her own. The protest committee denied her request to reopen. L appealed.

Decision

Notwithstanding that the boats made contact on the water, by her own admission, L sailed directly to her berth which was not the regatta site, after the race. The notice of the protest was properly posted to inform L of the time and place of her hearing. It is the competitor’s responsibility to read the notice board. The protest committee is under no obligation to search for a party to a hearing. The hearing was properly convened under rule 63.3(b) in the absence of L when she did not attend.

The request to reopen was e-mailed to the chairman of the protest committee several days after the event. The new evidence was nothing more than L’s version of the facts. This is presumably the same evidence she would have given if she had attended the hearing, it is therefore not considered to be new. Rule M4.2 and World Sailing Case 115 describe new evidence; this does not qualify.

The request to reopen was properly denied. The appeal is denied.

2006–4

APPEAL 100
DELETED (in 2021)

APPEAL 101
DELETED (in 2021)

APPEAL 102

Basic Principles, Sportsmanship and the Rules

Rule 3, Decision to Race

Rule 4, Acceptance of the Rules

Rule 69, Misconduct

Rule 76, Exclusion of Boats or Competitors

The Racing Rules of Sailing apply to boats that participate in a race. A competitor who commits breaches of good manners or sportsmanship or both over a protracted period commits misconduct. The jurisdiction of the protest committee is limited to the race or series to which it is appointed.

Summary of the Facts

The protest committee received a written complaint against X's skipper alleging abusive behaviour during races of the yacht club's weekly series in which X repeatedly sailed in the wrong fleet. Further reports indicated that, during the yacht club's weekly series over three sailing seasons X entered, started and sailed in the races for a fleet of which she was not a member, five minutes ahead of the start of her own fleet.

In a rule 69 hearing the protest committee found to its comfortable satisfaction that the actions of X's skipper constituted misconduct through breaches of good manners and sportsmanship over a protracted period. It disqualified the boat from all races in the series. In addition, the protest committee excluded the competitor from all competition for which the yacht club is the organizing authority, for a period of two years.

The competitor appealed on several grounds. X claimed that he was observing the government right-of-way rules, as was his right. He had no undertaking under rule 4.1(a) to accept the rules, or under rule 4.3(a) to be governed by the rules or by rule 4.3(b) to accept the penalties imposed under the rules. By rule 3, the responsibility for a boat's decision to participate in a race or to continue racing was hers alone. He appealed that the findings of the rule 69 hearing were outside of the protest committee's jurisdiction. He asked the appeals committee to find the protest committee's decision to be null and void and ultra vires.

Decision

X's actions directly contradict the assertion that she was not racing under *The Racing Rules of Sailing*. Boat X was entered in the series and took the decision under rule 3 to participate in the race, as evidenced by her own actions. There is no contradiction between rule 4 and rule 3 which gives the responsibility for a boat's decision to participate in a race to the boat alone. Rule 3 does not provide a choice whether or not to observe *The Racing Rules of Sailing*.

Since the skipper of X had participated in the race under rule 4.1(a), he was a competitor in the sport of sailing. He was, therefore, governed by a body of rules that he was expected to follow and enforce under the Basic Principle, Sportsmanship and the Rules and rule 69.1. Once he was found to be in breach of those principles, he was obligated to accept the penalties imposed, subject to the appeal process.

The appeal is denied. The decision of the protest committee that the skipper of X committed misconduct under rule 69.1 is upheld. The disqualification of X from the races in the current weekly series under rule 69.2(h)(2) is upheld. However, the exclusion of the competitor is limited to the current weekly series. The jurisdiction of the protest committee is limited to the race or series to which it is appointed. The exclusion of a competitor in a future event by rule 76 is a decision of the organizing authority or race committee.

2007-7

APPEAL 103

Rule 61.1, Protest Requirements: Informing the Protestee

Rule 63.5, Hearings: Validity of the Protest or Request for Redress

A protest flag shall be displayed at the first reasonable opportunity. Neither the proximity of other boats nor sailing short-handed provides relief from this requirement.

Summary of the Facts

Three keelboats between seven and ten metres in length were rounding a mark in light airs. There was contact among the boats, and the inside boat hailed “protest.” The inside boat (I) did not display a protest flag until approximately five minutes after the incident, and protested both outside boats (O and O2). Both outside boats were disqualified under rule 18.

Both of the outside boats appealed in a common submission, on the basis that I had not flown her protest flag at the first reasonable opportunity. Having not heard I’s hail and having not seen I’s protest flag because of its late display, O claimed that she had been denied the opportunity to exonerate herself had she so desired. The second outside boat, O2 was aware of the hail of protest.

The protest committee was the only participant to offer comments on the appeal, stating that the inside boat was short-handed and sailing through a mooring field. The protest committee therefore, considered that the delayed display of the protest flag was reasonable in the circumstances.

Decision

Neither of I’s protests against the outside boats met the requirements of rule 61.1. Since the protest was invalid, rule 63.5 obligated the protest committee to close the hearing.

World Sailing Case 103 discusses the concept of “seamanlike” as related to boat-handling and states that it “must be based on boat-handling that can reasonably be expected from a competent, but not expert crew of the appropriate number for the boat.” It is reasonable to expect the same efficiency with respect to displaying a protest flag. The presence of other boats, whether underway or moored, is not reasonable grounds for a boat to delay displaying a flag, nor can she justify such delay because she chose to sail with fewer crew members.

The appeal of the two outside boats is upheld. Both boats are to be reinstated in their finishing places, and the results of the race are to be recalculated.

2006–02

APPEAL 104

Rule 10, On Opposite Tacks

Rule 13, While Tacking

Rule R5, Inadequate Facts; Reopening

Both the diagram and written facts are facts found by the protest committee. Neither takes precedence over the other. Rule R5 gives a national authority the authority to require the protest committee to provide revised or additional facts that resolve the conflict.

Summary of the Facts

Hobie 16 S was close-hauled on starboard tack, approaching the windward mark at about ten boat lengths out. PO and PI were on port tack approaching the mark, tight to the mark, with PI closest to the mark and one-half boat length overlapped with PO from behind. At ten boat lengths from the mark S hailed, “Don’t tack there.” S altered course to avoid PO and PI. The protest committee’s written facts indicate that when S altered course, PO and PI were tacking, while the protest committee’s official diagram shows that PI had passed head to wind while PO had not. The protest committee upheld the protest and disqualified PO and PI under rule 13.

The next day PI requested to reopen the hearing under rule 66. She argued that photographic evidence given in the initial hearing demonstrates that the protest involved two separate incidents and should have been heard separately. The protest committee denied the request to reopen.

PI appealed to Sail Canada that the protest committee's diagram shows that PI was head to wind when S passed safely to leeward of her while sailing on or above a close-hauled course. She argued that the facts found do not support the conclusion that PI should be disqualified under rule 13 or any other rule. Sail Canada delegated the appeal to the Ontario Sailing (OS) appeals committee.

Decision of the Ontario Sailing Appeals Committee

The OS appeals committee noted that the words, "while they were tacking" in fact 4 was a conclusion, not a fact, and used rule R5 to request that the protest committee provide an additional fact or facts related to what PO and PI were doing when S changed course. Following World Sailing Case 104, it further asked the protest committee to provide revised or additional facts or a diagram, or both, to resolve the conflict between the protest committee's diagram which showed PI and PO on port tack and not beyond head to wind, and its conclusion that the boats were tacking when S changed course.

The protest committee provided the following revised and additional facts: "PO was on port and broke rule 10 when she luffed, because S on starboard, bore away to avoid contact before PO had passed head to wind. PI to windward of PO responded to PO's luff by luffing. However, PI continued luffing and passed head to wind, requiring S to further bear away to avoid her before she was on a close-hauled course on starboard, breaking rule 13." The protest committee also provided a revised diagram that was consistent with these facts.

The OS appeals committee denied the appeal, since the protest committee's revised facts support its conclusion that PI broke rule 13 and remains disqualified. PO remains disqualified for breaking rule 10, not rule 13.

PI appealed this decision to Sail Canada. She argued that the OS appeals committee's request to the protest committee to "provide *revised* (emphasis hers) or additional facts and/or a diagram to resolve the conflict between the protest committee's diagram ... and its conclusion" was improper and introduced bias into the appeals process. She argued that after OS determined that the words, "while they were tacking," in fact 4 was a conclusion, not a fact," there were no remaining conflicts in the facts. OS was therefore obligated to accept the facts found where there was no conflict between facts, leaving them only to request additional facts. PI also requested that if new evidence is presented, she be allowed to witness the presentation of the evidence and to question the presenter under rules 63.3 and 63.6.

Decision of the Sail Canada Appeals Committee

The decision of the protest committee contained a clear conflict between the written facts and the diagram. World Sailing Case 104 confirms that both the diagram and written facts are facts found by the protest committee. Neither takes precedence over the other. R5 gives an appeals committee the authority to require the protest committee to provide revised or additional facts that resolve the conflict. The OS Appeals committee did just that. The protest committee's submission of amended facts upon request is entirely consistent with rule R5 and World Sailing Case 104. It did not take new evidence to resolve the conflict between its written facts and the diagram. The appeal is denied.

2009-02

APPEAL 105

Definitions, Mark-Room

Definitions, Racing

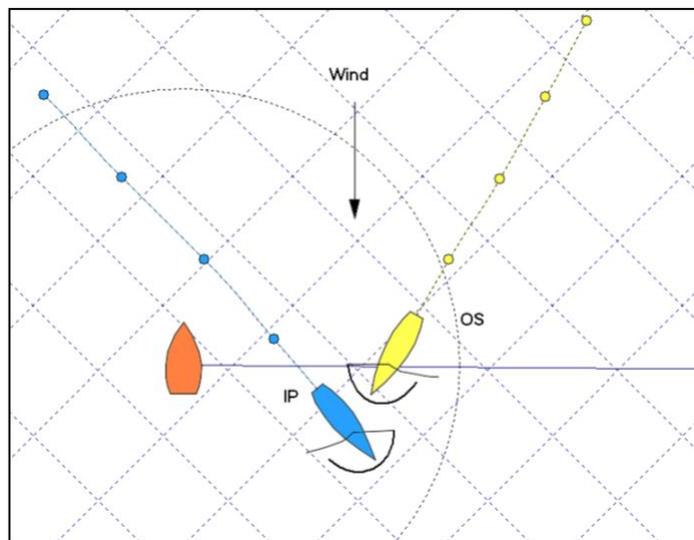
Rule 10, On Opposite Tacks

Rule 18.2(b), Mark-Room: Giving Mark-Room

Rule 23.1, Interfering with Another Boat

Rule 43.1(b), Exoneration

When mark-room has been given, an inside overlapped boat on port tack is not exonerated for failing to keep clear of a boat on starboard tack. A boat that has not cleared the finishing line and marks is racing and subject to penalty if protested.



Summary of the Facts

Two Sharks, IP and OS, were finishing a race, downwind. IP, inside and on port tack, was within three boat lengths of the RC finishing vessel. OS, outside on starboard tack, was on a converging course with IP. IP finished and cleared the finishing line inside the zone. OS altered course when on the finishing line to avoid contact with IP, after IP had finished. There was no contact. OS protested.

The protest committee dismissed OS's protest after finding that OS was required to give IP mark-room under rules 18.1 and 18.2(a), and that she did so.

OS appealed the decision on the basis that the protest committee had failed to apply rule 10, and had incorrectly applied rule 18.2 and the definition Mark-Room.

Decision

Throughout the incident, OS was on starboard tack and held right of way, but had obligations. Rule 18.2(b) required her, as outside boat, to give IP inside, room to pass the mark as necessary to sail the course without touching the finishing mark. OS fulfilled that obligation, giving ample room according to the official diagram. IP took more room than necessary to leave the mark on the required side.

When OS on starboard had to change course to avoid IP on port after IP finished, IP broke rule 10, by failing to keep clear. OS had fulfilled her obligations to give mark-room under rule 18.2(b). Since IP had left the finishing mark astern, and was no longer sailing within her mark-room, she was not exonerated by rule 43.1(b).

The protest committee's facts state that IP had had finished and left the finish line astern, but she had not yet cleared the marks. Therefore, she was still racing according to the definition, and subject to penalty under rule 10, rather than rule 23.1.

The appeal is upheld. IP is disqualified for breaking rule 10.

2009-04

APPEAL 106

Rule 61.1, Protest Requirements: Informing the Protestee

Rule 63.3, Hearings: Right to Be Present

Rule 63.6, Hearings: Taking Evidence and Finding Facts

Sail Canada Prescription to Appendix R, Procedures for Appeals and Requests

Rule R5, Inadequate Facts; Reopening

A short-handed crew is not relieved of the responsibility to hail protest and display a red flag at the first reasonable opportunity for each. Parties to a hearing have the right to be present if a protest committee reconvenes to take new evidence or to provide new written facts or diagram. World Sailing Cases are binding as authoritative interpretations of the rules. MNA appeals decisions are not authoritative, but they may provide guidance. The appeals of one MNA do not have more importance than those of another.

Summary of the Facts

An incident occurred between M242s, S close-hauled on starboard and P, close-hauled on port as S was about to round the windward mark. S hailed "protest" immediately. She then proceeded to pass the mark, sail to and round the offset mark, gybe, hoist a spinnaker and then display a red protest flag. In the hearing the protest committee found as fact that it took 25 seconds to display the protest flag with the boats travelling at a speed of four knots.

The protest committee concluded that S did not display a red protest flag at the first reasonable opportunity as required by rule 61.1(a). It declared the protest invalid and closed the hearing.

S appealed the protest committee's decision to Sail Canada on the grounds that the protest committee erred in judging that 25 seconds was too long to display the protest flag, since the boat was in the process of rounding the mark and hoisting her spinnaker in close proximity of an overlapped boat. Sail Canada delegated the appeal to the Pacific International Yachting Association (PIYA) appeals committee.

Decision of the Pacific International Yachting Association Appeals Committee

Under rule R5 the PIYA appeals committee requested that the protest committee provide it with an official diagram. The protest committee then drew a diagram without reopening the hearing.

The PIYA appeals committee estimated, on the basis of the diagram, that the time taken to display the protest flag was about 12 seconds, and not 25 seconds as written in the facts found. It further concluded that from the time the incident ended, S's crew of three would have been preoccupied with handling the boat, trimming sails, and preparing for and carrying out a spinnaker set and jib douse or furl. It cited US Sailing Appeal 82, which states, in part, "... a boat is not obligated to give priority to displaying a protest flag at the cost of ... delaying a spinnaker set." The PIYA appeals committee upheld S's appeal and, under rule 71.2, directed the protest committee to convene and hear the protest.

P appealed this decision to Sail Canada, arguing that the PIYA appeals committee disregarded facts found in the protest hearing and used new evidence to make its decision.

Decision of the Sail Canada Appeals Committee

The Sail Canada prescription to Appendix R permits the further appeal of a provincial appeals committee's decision to Sail Canada. The PIYA appeals committee's decision to uphold S's appeal and request a hearing may be appealed to Sail Canada.

The PIYA appeals committee acted within rule R3 to request an official diagram of the incident. In its comments to Sail Canada, the protest committee reported that it had consulted the club's race director when preparing the official diagram. This was a procedural error by the protest committee under rules 63.3 and 63.6, effectively taking new evidence and finding new facts in the absence of the parties.

The PIYA appeals committee found discrepancies between the facts found at the hearing and the diagram but did not request the protest committee to reopen the hearing to resolve the discrepancies under rule R5. World Sailing Case 104 notes that both the diagram and the written facts are facts found by the protest committee. Neither takes precedence over the other.

The PIYA appeals committee erred in using the new facts found in the diagram to decide the appeal.

To determine whether S displayed her protest flag at the first reasonable opportunity, as required by rule 61.1(a) the PIYA appeals committee relied on US Sailing Appeal 82 for interpretation but did not consider World Sailing Cases or Sail Canada Appeals. Sail Canada Appeal 63 states that "A J/24 with a crew of five would have to provide compelling reasons why her protest flag was not displayed within a very few seconds after an incident." In her submission to Sail Canada, the appellant argued that untying the flag affixed to the backstay during the mark rounding and spinnaker hoist would have detracted from the safe and efficient handling of S and was therefore not reasonable. The protest committee made no observation of any effect these manoeuvres might have had on the timeliness of display. If a crew of three was indeed inadequate, World Sailing Case 103 discusses the concept of "seamanlike" in the context of rounding a mark, stating that it "must be based on the boat-handling that can reasonably be expected from a competent, but not expert crew of the appropriate number for the boat." The Sail Canada appeals committee considers that it is reasonable to expect the same efficiency with respect to displaying a protest flag.

The appeal is upheld. S did not display her protest flag at the first reasonable opportunity as required by rule 61.1(a). Her protest is invalid. The decision of the PIYA appeals committee directing the protest committee to convene a hearing is put aside.

There is nothing in *The Racing Rules of Sailing* to indicate that the decisions of MNAs have any binding effect. The fact that the World Sailing Cases are binding, being authoritative interpretations of the rules, implies that other decisions are not binding. Decisions of MNAs provide further guidance, as their reasoning might be persuasive. In practice, a protest committee or the appeals committee of an MNA might be more familiar with and more inclined to follow its own previous appeals rather than foreign ones. However, the rules do not give any MNAs appeals more importance than those of any others.

2009–10

APPEAL 107

Rule 60.3, Right to Protest; Right to Request Redress or Rule 69 Action

Rule 61.1, Protest Requirements: Informing the Protestee

Rule 63.5, Hearings: Validity of the Protest or Request for Redress

Rule 65.2, Informing the Parties and Others

Rule 66.2, Reopening a Hearing

Rule R2.1, Submission of Documents

If a protest is found to be invalid, the hearing shall be closed. A protest committee shall consider whether a request to reopen a hearing has met the requirements for a reopening. A written decision of a refusal to reopen must be provided in the event that it is requested by a party.

Summary of the Facts

In a handicap fleet race, X filed a protest against Y, C, D, and E, alleging that they failed to round mark 10 of the course, breaking rule 28. In the hearing the protest committee found that X did not display a protest flag or hail to inform the boats of the protest, or inform the boats before or at the first reasonable opportunity after they finished, and so ruled the protest to be invalid. The protest committee then proceeded with a hearing, found as fact that Y, C, and D failed to properly sail the course, and

disqualified them from the race. E had withdrawn from the race. Y requested a reopening of the hearing, but the protest committee denied her request. Y requested the decision in writing, but the protest committee did not provide it.

Y appealed the original decision on the grounds that the protest committee made a serious error in proceeding to find fact and make a decision on the invalid protest, in contravention of rule 63.5. Y also appealed the protest committee's denial of a reopening of the hearing.

Decision

The protest committee was correct in finding that X's protest was invalid. While rule 61.1(a)(3) did not require her to hail or display a red flag, she had not fulfilled her obligation to inform the boats before or at the first reasonable opportunity after they finished. Having found the protest to be invalid, rule 63.5 required the protest committee to close the hearing. Rule 60.3(a) prohibits a protest committee from protesting a boat as a result of information arising from an invalid protest. The protest committee then made a significant error by using the information obtained from the invalid protest to proceed with a hearing and disqualify three boats.

The protest committee received a timely request to reopen the hearing under rule 66.2, but the request was denied. Y requested a copy of this decision in writing two days later, but the protest committee did not provide it, making a procedural error under rule 65.2. Rule R2.1 permitted the appellant to send a statement of the substance of her protest when the protest committee did not make its written decision available to her.

The appeal is upheld for the reasons stated by the appellant. Y, C, and D are to be reinstated in their finishing places in the race.

2010-4

APPEAL 108

Rule 63.7, Hearings: Conflict Between Rules

Rule 90.3, Race Committee; Sailing Instructions; Scoring: Scoring

Rule A2, Series Scores

Rule J1.3, Notice of Race Contents

When the scoring provisions of rule A2 are changed, the organizing authority and race committee must write the notice of race and sailing instructions to avoid a conflict between documents. Should a conflict occur, the organizing authority or the race committee must address it by means of a timely amendment.

Summary of the Facts

At the Canadian J/24 national championships, X requested redress, alleging a scoring error by the race committee. The NoR specified that there would be one excluded score after five races were completed and two scores excluded after ten races were completed. The SIs only specified that there would be no excluded scores when fewer than five races were completed. Ten races were sailed and the race committee scored the event with two excluded scores. In her request for redress, X argued that there should only be one excluded score and that the event should be scored on that basis.

The protest committee denied the request for redress on the basis that the specification for scoring after ten races in the NoR was complementary to, rather than in conflict with the SIs.

X appealed providing a number of bases for her appeal. Firstly, rules 90.3 and A2 require that the SIs or NoR specify any variation from the default scoring system of rule A2. Secondly, the NoR specified the application of the International J/24 Class Association (IJCA) regatta regulations, which required the use of model NoR and SIs employing a single excluded score. Thirdly, the difference between scoring provisions in the NoR and the SIs implied that race committee intended to change the scoring provisions

for the event. Finally, a radio broadcast of the race committee's intent to score with two excluded scores after ten races were completed constituted an amendment of the SIs in contravention of rule 90.2(c).

Decision

In its comments on the appeal, the protest committee noted the difference between the scoring provisions of the NoR and SIs, but argued that there was no conflict between the two with respect to excluded scores, so that rule 63.7 did not come into effect. The protest committee added that the conflict alleged by the appellant was apparent from the time the SIs were available, and the appellant had taken no effort to address a question to the race committee before racing started. The protest committee noted that the appellant's was the only request for redress and that other competitors had elected not to sail the final race due to the availability of a second discarded score. It was the protest committee's belief that rescoring the series would have adversely affected several boats. Finally, the protest committee noted Appendix J1.3(5) which called for publication of the scoring system in the NoR where it differed from the provisions of Appendix A.

The race committee commented that it consulted the protest committee chair prior to the final day of racing to obtain the protest committee's interpretation of the scoring provisions. The protest committee chair had felt that two excluded scores were appropriate and that the subsequent radio transmission by the race committee to competitors was simply a confirmation for the competitors' information.

The regatta regulations of the IJCA set the requirements for world and continental championship series. Paragraph 1.1 of the regatta regulations indicates that, "the same regulations may serve as guidelines for national championships ...". Thus, although the NoR indicated that the "regatta regulations of the IJCA would apply," the organizing authority would not be in contravention of those regulations if it did not follow them, since they are only guidelines for a national championship.

The protest committee erred in concluding that the NoR and SIs were complementary. The scoring provisions of each of the NoR and SIs must be read in their entirety. The NoR provides for two excluded scores after ten races, and since the SIs are silent on the number of excluded scores when there are more than five races, rule A2 "the total of her race scores excluding her worst score" applies; therefore, the NoR and the SIs are in conflict. Rule 63.7 makes provisions for resolution of such conflicts.

A conflict between the NoR and SIs on scoring must be resolved. Rules 90.3(a) and A2 make provision for either the SIs or the NoR to change the default scoring provisions. Appendix J sets requirements for both the NoR and SIs, including an obligatory requirement for the definition of scoring systems for both the NoR (rule J1.3(5)) and the SIs (rule J2.1) unless the change is stated in the NoR.

Whether the conflict between the scoring provisions of the NoR and SIs was intentional or inadvertent is irrelevant to *The Racing Rules of Sailing*.

It would have been better had the race committee resolved the conflict between the scoring provisions of the NoR and SIs by means of an official notice during the course of the regatta; however, the race committee scored the ten-race regatta with two excluded scores, and responded to questions from competitors on the topic informally, by radio. Failure to resolve the conflict between the NoR and SIs was an error of the race committee; although its action was guided by advice from the protest committee.

The appeal is upheld, but only in respect to the error made by both the race committee and protest committee.

Rule 63.7 requires a protest committee to resolve conflict between two or more rules in the NoR and the SIs by applying the rule that it believes will provide the fairest result for all boats affected. In that the protest committee concluded there was no conflict between the NoR and SI, it is clear it did not apply the principles of rule 63.7.

The series results show the effects of the conflicting scoring provisions of the NoR and SIs. Changing from two excluded scores to one excluded score would affect the results for places 1, 2, 3, 4, 6, and 7 in the regatta, with all other places remaining unchanged.

The requirements for redress in rule 62.1(a) are met since X's finishing place was made significantly worse by the conflict between the NoR and SIs and the improper decision of the protest committee. The

decision of the protest committee is reversed and redress is given to all affected boats. Given the circumstances for this event and the effects on the results, the Sail Canada appeals committee considers that it would be fairest for all concerned if boats were awarded results based on the scoring system most favourable to them.

2010-7

APPEAL 109

Rule 2, Fair Sailing

Rule 62.1(d), Redress

Rule 63.6, Taking Evidence and Finding Facts

Rule 64.1, Decisions: Standard of Proof, Majority Decisions and Reclassifying Requests

A boat that cannot be identified although it may have broken a rule, cannot be penalized.

A fact that is found on the weight of evidence may not be appealed. Redress under rule 62.1(d) may be given only when a boat has been penalized or a member of her crew has been subject to disciplinary action with respect to the incident.

Summary of the Facts

At the start of a race in Optimist dinghies, W was on starboard tack with another boat 30 cm to leeward. The skipper of the boat to leeward grabbed W's leeward gunwale. W protested X, which W alleged was the boat to leeward, and requested redress, alleging that X had pushed W backwards.

The protest committee found as fact that a person had grabbed W's leeward gunwale, but decided that X was not the boat whose skipper had done so. The protest committee dismissed W's protest against X and denied redress, since the conditions in rule 62.1(d) had not been met.

W appealed, claiming that the protest committee had failed to take into account all the evidence presented, including that of a witness. She claimed that the boat to leeward had been clearly identified, and therefore it must have been that boat's skipper who pushed her backwards. W claimed that the protest committee should have protested the boat that had grabbed her leeward gunwale for breaking rule 2.

Decision

The appeal is based on the fact found that X was not the boat whose skipper pushed W backwards. Rule 70.1 does not permit an appeal of the facts. The protest committee properly weighed the evidence in finding these facts and applied a balance of probabilities as the standard of proof in making its decision.

W's appeal is denied. If the protest committee had learned from this valid protest the identity of any other boat or skipper in this incident, it could have protested her. However, it was not obligated to do so. Because a boat had not been penalized under rule 2 or penalized or warned under rule 69, the protest committee correctly concluded that the conditions for redress in rule 62.1(d) had not been met.

2011-04

APPEAL 110

Rule 42.2, Propulsion: Prohibited Actions

Ooching: sudden forward body movements, stopped abruptly, is a prohibited action, even when passing over the waves generated by a passing vessel.

Summary of the Facts

X protested Y under rule 42.2(c) for ooching. X testified that she observed the crew of Y throwing her body forward and abruptly stopping, six times in a 15-second period. The protest committee found these actions to be facts, and disqualified Y under rule 42.2(c).

Y appealed, arguing that her crew's actions were torquing, permitted under the World Sailing interpretation of rule 42, OOCCH 1. She agreed that the crew moved her body forward and aft to try to reduce her sailboat's excessive forward and aft movement in the water caused by the waves of a passing powerboat, but argued that the words, "stopped abruptly" did not exactly match what the crew did.

Decision

Y's assertion that the crew's movements did not include stopping abruptly is arguing a fact. Rule 70.1 does not permit appeal of a protest committee's facts found.

The facts found describe body movements consistent with the prohibited action of ooching in rule 42.2(c): sudden forward body movement, stopped abruptly. There is no interpretation that would permit abrupt stopping in any water condition, including going through the wake of a passing vessel. The facts are not consistent with the World Sailing interpretation, torquing, "repeated fore and aft rotating or rotating movements of the body," which does not include abrupt stopping.

The appeal is denied. The protest committee was correct in concluding that Y's crew's actions described in the facts found were ooching, breaking rule 42.2(c).

2011-6

APPEAL 111

Rule 11, On the Same Tack, Overlapped

Rule 14, Avoiding Contact

Rule 16.1, Changing Course

Rule R5, Inadequate Facts; Reopening

A windward boat shall keep clear of a leeward boat. A leeward boat does not break rule 16.1 when she gives the windward boat room to keep clear when changing course.

Summary of the Facts

Before the starting signal, W and L were overlapped, with W to windward and moving faster than L. After the start, L altered course to windward but did not pass head to wind. Contact occurred between L's mast and W's mainsail. The protest committee concluded that W failed to keep clear of L and broke rule 11. The protest committee also concluded that L did not give W room to keep clear and broke rule 16.1. Both boats were disqualified from the race.

W appealed the decision on the grounds that the protest committee failed to apply the appropriate rules to the facts agreed upon by all parties. She argued that rule 11 was applied inappropriately, since L altered course without giving W room to get clear. She further argued that the protest committee failed to apply rule 13 when L passed head to wind. She also noted the failure to apply rule 14, since L did not avoid contact with W.

Decision

The appeal is upheld, in part.

W to windward was obligated to keep clear of L to leeward. Additional facts received by Sail Canada from the protest committee under rule R5 indicate that the overlap between the boats was established ten seconds prior to the starting signal. The distance between the boats was six metres. With W moving faster than L, the boats were roughly bow-even at the start. L's change of course to windward occurred about five to seven seconds after the starting signal. When L fell into the wind shadow of W, L lost heel and her mast made contact with W's mainsail. W took no action to avoid contact. W broke rule 11 and rule 14.

Since L did not pass head to wind, she did not break rule 13. With the overlap established about 15 to 17 seconds prior to contact, with separation of six metres, L was giving W room to keep clear as she luffed, and did not break rule 16.1. L did not break rule 14 since it was not possible for her to act to avoid contact once it was clear that W was not keeping clear.

When there is contact between boats, a protest committee should find facts with regard to damage or injury. However, in its hearing of the protest, the PC did not do so. Although in its protest the appellant alleged damage to its mainsail, since L did not break rule 14, she is not penalized.

L's disqualification is reversed; she is to be reinstated in her finishing place. W's disqualification stands.

2012-1

APPEAL 112

Definitions, Finish

Rule 31, Touching a Mark

Rule 60.2, Right to Protest; Right to Request Redress or Rule 69 Action

Rule 63, Hearings

Rule A5, Scores Determined by the Race Committee

When a boat has sailed the course and meets the definition Finish, a race committee shall score her in her finishing place. If a boat touches a mark at the finishing line the race committee may protest her for a breach of rule 31.

Sail Canada received a request for an interpretation of the rules, expressed as three scenarios with questions.

FACTS

1. The boat does not take a penalty under rule 44.2, and the Scoring Penalty does not apply.
2. The boat is not protested by another boat for breaking rule 31.
3. The race committee observes the boat make contact with the finishing mark.

Scenario 1

The boat makes contact with the finishing mark before finishing, but is not aware of the contact.

QUESTIONS

How does the race committee score the boat? Should the race committee protest the boat for making contact with the mark?

ANSWERS

Once any part of the boat's hull crosses the finishing line from the course side, the boat finishes, since she takes no further action under the definition Finish. Rule A5 does not permit the race committee to make the boat's score worse without a hearing if she touches a mark and breaks rule 31.

Rule 60.2(a) provides that the race committee may, but is not required to protest the boat for breaking rule 31 for touching a mark.

Scenario 2

The boat finishes but before clearing the finishing line and marks, the boat makes contact with the finishing mark. The boat rounds the finishing mark and finishes after making one gybe.

QUESTION

When does the race committee score the boat in her finishing position? After the first or second crossing of the finishing line?

ANSWER

The definitions Finish and Racing and rule 60.2(a) apply. World Sailing Case 127 refers. The race committee shall score her in her finishing place after the second crossing of the finishing line.

Scenario 3

The boat makes contact with the finishing mark before finishing and the race committee scores the boat DNF. The boat requests redress alleging an incorrect score.

QUESTIONS

Would the protest committee uphold her request for redress, alleging an incorrect score? May the protest committee consider the boat's contact with the finishing mark in the redress hearing?

ANSWERS

Since the boat crosses the finishing line as per the definition Finish, the race committee shall score her in her finishing place. Since it is an improper action under rule A5 for race committee to score the boat DNF without a hearing, the boat is entitled to redress under rule 62.1(a). The protest committee would reinstate the boat in her finishing place.

The race committee may give evidence regarding the contact with the finishing mark. However, in the absence of a valid protest against the boat for an alleged breach of rule 31, the protest committee may not consider that evidence in determining whether she is entitled to redress. A fundamental principle of protest procedure is that a hearing must be limited to the particular incident alleged in a protest (see rule 61.2(b)) or to the particular incident alleged to be an improper action or omission in a request for redress under rule 62.1(a). Rules 60.2(a) and 60.3(a) would not permit the race committee or the protest committee to protest the boat for breaking rule 31 as a result of information arising from a request for redress.

2013-1

APPEAL 113

Adopted as World Sailing Case 143

APPEAL 114

Rule 61.1, Protest Requirements: Informing the Protestee

Rule 63.5, Hearings: Validity of the Protest or Request for Redress

A boat intending to protest must display a protest flag at the first reasonable opportunity.

An incident that results in damage that is not obviously serious to the protesting boat at the time of the incident does not relieve the boat of this obligation.

Summary of the Facts

In an incident prior to the start of the race, X protested Y for contact that resulted in damage to X. At the time of the incident X displayed a red sail tie with tape as a protest flag less than one minute after the incident, after retrieving it from below decks, and she hailed "protest."

At the hearing the protest committee determined that no one was injured in the incident. A photograph of the boat showed a scratch on the starboard hull, approximately 60 cm long. X reported that she was able to continue in the race following the incident. The protest committee concluded that the damage to X was not serious, and so rule 61.1(a)(4) did not apply. Applying World Sailing Case 72, the protest committee concluded the requirements of rule 61.1(a) were not met, since the red sail tie with tape did not meet the requirements to be seen as a flag, and it was not flown at the first reasonable opportunity. It found the protest to be invalid, and closed the hearing under rule 63.5.

X appealed on the grounds that the obvious damage caused to her boat would meet the requirements of rule 61.1(a)(4), so that the requirements regarding the protest flag did not apply. She submitted an estimate for \$11,500.00 to repair and repaint the boat, dated after the protest hearing, as evidence of the serious damage. In addition, X argued that the protest committee could have filed a protest themselves, using rule 60.3(a)(1) when it learned of serious damage resulting from the incident.

Decision

The exception in rule 61.1(a)(4) to display a protest flag at the first reasonable opportunity is available to a boat intending to protest in two circumstances. The first is if at the time of the incident, it is obvious to the protesting boat that as a result of the incident a member of either crew is in danger. This was not the case here.

The second exception is if, at the time of the incident, it is obvious to the protesting boat that injury or serious damage resulted. By her own statement, the damage to X was “obvious” to the protesting boat at the time, but not considered to be “serious.” Any damage from the contact did not impede X’s crew from retrieving the object she used as a protest flag and displaying it within one minute. She was able to continue in the race following the incident, since the scratch to the hull had not compromised her seaworthiness or her compliance with class rules or required safety equipment. X’s actions indicate that, at the time of the incident, serious damage was not obvious to her when she intended to protest. The cost of repair would not retrospectively excuse the protesting boat from complying with the requirements of rule 62.1(a)(4) at the time of the incident for a valid protest.

When serious damage was not obvious to X at the time of the incident, rule 61.1(a) required her to display a protest flag at the first reasonable opportunity. The red sail tie with tape was not a protest flag as described by Case 72. Retrieving the object from below deck was not her first reasonable opportunity. Her protest, therefore, did not meet the requirements of rule 61.1(a). With no valid protest, the protest committee acted properly to close the hearing under rule 63.5.

The protest committee would have made no mistake if it had acted under rule 60.3(a)(1) and called a hearing, having learned of the incident with contact which may have resulted in serious damage. Parties to hearings are not always aware of the full extent of any damage following a collision. In this case, without a full inspection of the boat, it was possible that the damage could have been serious. However, the rule does not require the protest committee to proceed with its own protest. The protest committee did not err by not filing its own protest.

The appeal is denied for the reasons given by the protest committee.

2017-1

APPEAL 115

Definitions, Sail the Course

Rule 28.1, Sailing the Race

Rule 63.6, Hearings: Taking Evidence and Finding Facts

Parties to a protest who are denied the opportunity to question a witness are denied due process.

When due process is denied, the protest committee must find some remedy.

Reopening the hearing may be required to do this.

Summary of the Facts

The course for the second windward leg of the race was to round the windward mark 1, and then the offset mark 1a, before reaching to mark 2. Two members of the protest committee observed the rounding from the jury boat. They protested Boats X, Y and Z, alleging that they had approached mark 1 on port tack and tacked two boat lengths beyond mark 1 to round mark 1, and then proceeded on a course to mark 2 without rounding mark 1a. The boats did not return to correct their course and they were scored in their finishing places.

The members of the protest committee who observed the incident did not sit on the protest committee for this hearing. One served as protestor and the other gave evidence as a witness.

The protestees called one witness. The protest committee called a race officer (RO) who had observed the incident as a witness. The RO gave evidence, but when the protest committee began to ask him questions, the RO told the protest committee, “you have five minutes” to finish and then he left the room before being dismissed.

The protest committee found as fact that that X, Y and Z did not round mark 1a and they did not return to correct their error in sailing the course. The protest committee upheld the protest and disqualified X, Y and Z under the definition Sail the Course and rule 28.1.

X appealed the decision, claiming a breach in the protest procedure by calling the RO as an additional witness to the hearing. The protestees were given no warning that this witness would be called, and had no reason for calling him. The parties were given no opportunity to question this witness.

Decision

The protest committee made no error in calling the RO as a witness without prior identification or warning, and without giving the protestees a reason for calling him. Rule 63.6(a) allows the protest committee to take other evidence it considers necessary.

Rule 63.6(c) permits a party present at the hearing to question any person who gives evidence. When the RO gave evidence and left the hearing before the protestees could ask all of their questions, the protestees were denied the opportunity to examine his evidence further. This flaw in the protest procedure denied the protestees due process in this hearing.

The appeal is upheld and the protest is returned to the protest committee for a reopening under rules 66.1 and 71.2 to ensure that the protestees are provided with due process. The reopening permits all parties to bring any evidence and any witnesses as desired, and for the protest committee to allow the protest to be withdrawn in accordance with rule 63.1.

2017–2

APPEAL 116

Definitions, Keep Clear

Rule 10, On Opposite Tacks

Rule 14, Avoiding Contact

Rule 64.2, Decisions: Penalties

In gusty conditions, a starboard tack boat may sail her course with no need to take avoiding action, in expectation that a port tack boat that is keeping clear will continue to do so. A protest is upheld when a boat breaks a rule. If she has taken an appropriate penalty, she shall not be further penalized for that breach.

Facts

In 12 to 15 knots of gusty wind, S a Farr ILC 40 was sailing upwind on starboard tack. P, a ten-metre keelboat approached on port tack, sailing downwind on a course to cross ahead of S. Each boat held her course as they converged. Several seconds before the crossing, S heeled over farther in a gust. As the boats crossed, contact occurred between the upper section of S's mast and the top of P's mast. Both boats sustained damage to their masts. S's top shrouds came apart from the jumper struts, and P lost its Windex. Both boats retired from the race.

The protest committee decided that P failed to keep clear of S, breaking rule 10. Since S did not act to avoid contact that resulted in damage, she broke rule 14. It dismissed the protest, since each boat had retired from the race. S appealed the decision that she had broken rule 14.

Decision

When P approached S for a close crossing in gusty conditions, rule 10 required P to keep clear of S so that S could sail her course with no need to take avoiding action. Applying the standard of World Sailing Case 123, it would have been clear to a competent but not expert sailor at the helm of P who was required to keep clear, that there was a substantial risk of contact in the gusty conditions. When P did not increase the crossing distance and did not avoid contact, she broke rule 14 as well as rule 10. Because P caused serious damage, her penalty under rule 44.1(b) was to retire.

S held her course and did not break rule 16. Additional facts obtained from the protest committee under rule R5 estimated the time from the gust to the contact to be about five seconds. It was not reasonably possible for S to act to avoid contact in that time without the risk of a crash tack, therefore she did not break rule 14. World Sailing Case 99 refers.

The appeal is upheld. The protest committee's decision is corrected to state that the protest against P is upheld. Since P took an appropriate penalty by retiring, no further penalty is given under rule 64.2(a). S broke no rule and her retirement from the race stands. In light of the changed decision, rule 60.3(b) allows the protest committee to call a hearing to consider giving S redress under 62.1(b).

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APPEAL 117

Rule 70.4, Appeals and Requests to a National Authority

Rule 75, Entering an Event

Rule 89.1, Organizing Authority; Notice of Race; Appointment of Race Officials:

Organizing Authority

World Sailing Case 143

When races are conducted by an organizing authority affiliated with the member national authority of the venue, The Racing Rules of Sailing may be used, including any right of appeal to the national authority of decisions of the protest committee.

Question

The Canadian Radio Yachting Association (CRYA) requested an interpretation of the rules under rule 70.4. It asked, "does World Sailing Case 143 preclude an appeal from a radio sailing club as organizing authority for any event as it is not directly affiliated to Sail Canada; or does indirect affiliation through the CRYA, satisfy the requirement of rule 89.1(d)?"

Answer

World Sailing Case 143 advises that rule 89.1 specifies the types of organizations that are authorized to be the organizing authority for races governed by *The Racing Rules of Sailing*.

Rule 89.1 includes part (d) an affiliated organization other than a club. In this rule, an organization is affiliated if it is affiliated to the national authority of the venue. The CRYA is affiliated to Sail Canada and therefore, may be an organizing authority under rule 89.1.

Radio sailing clubs may affiliate to the CRYA which is an affiliate to Sail Canada. Those radio sailing clubs that have affiliated to the CRYA can be considered to be affiliated to Sail Canada, and to fall within rule 89.1(c). Therefore, those clubs are authorized to be the organizing authority for races governed by *The Racing Rules of Sailing*. Decisions made by the protest committees for events run by these clubs would be eligible under rule 70 to be appealed to the national authority, Sail Canada.

Radio sailing clubs that have not affiliated to the CRYA or another organization listed in rule 89.1 cannot be considered to be affiliated to Sail Canada. Therefore, those clubs are not authorized to be the organizing authority for races governed by *The Racing Rules of Sailing*. Decisions made by the protest committees for events run by these clubs would not be eligible under rule 70 to be appealed to the national authority, Sail Canada.

Radio sailing competitors who join the CRYA and are members in good standing have fulfilled the requirement of rules E4.4 and 75 to be a member of an organization affiliated to the national authority.

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