

## Racing Rules of Sailing

### Rule 63.3(a)

A submission from the Malaysian Yachting Association

#### Purpose or Objective

To amend Rule 63.3(a)

#### Proposal

### **63.3 Right to Be Present**

- (a) The *parties* to the hearing, or a representative of each, have the right to be present throughout the hearing of all the evidence. ~~When a protest claims a breach of a rule of Part 2, 3 or 4, the representatives of boats shall have been on board at the time of the incident, unless there is good reason for the protest committee to rule otherwise.~~ Any witness, other than a member of the protest committee, shall be excluded except when giving evidence.

#### Current Position

As above.

#### Reasons

All modern judicial systems allow a party to be represented as a matter of right. It is unsound practice to remove this right under any circumstances and may lead to successful referrals to a court of law or CAS.

In practice where a sailor is perfectly capable of giving evidence in a part 2 hearing, but chooses to appoint some legal expert, he is unlikely to gain anything. More likely, such an appointment would be detrimental to his chances of winning a case.

On the other hand, a sailor not comfortable with the English language or with understanding the rules may need a representative to fairly put his case, and should not be put in a position that he must satisfy the Committee that there is a 'good reason'.

The Protest Committee should never be in the position of deciding whether there is 'a good reason' to permit the use of a representative (which is the current position).

In Asia we are used to dealing with shy, respectful, often young, sailors who often need a representative but would not feel comfortable having to argue there was a 'good reason'.

---