

## Racing Rules of Sailing

New Case (Appeal 107)

A submission from US Sailing

### Purpose or Objective

To submit a US Sailing Appeal for consideration as an ISAF Case.

### Proposal

**CASE XXX** (Appeal 107)

### **Definitions, Interested Party**

#### **Rule 63.4, Interested Party**

#### **Rule 71.2, National Authority Decisions**

*A protest committee member whose child is competing in a race that includes the parties to the protest is an interested party, because the relationship between the parent and child is a ‘close personal’ one. The protest committee member therefore will have a close personal interest in the protest committee’s decision, and therefore must not take part in the hearing.*

### **Summary of the Facts**

In the last race of a regatta involving International Optimists, the boat finishing second protested the boat finishing first concerning an incident near a windward mark. The decision on the protest could not affect the final series ranking of boats other than the protestor and the protestee. The protest committee disqualified the protestee.

The protestee appealed on the grounds that a member of the protest committee was an interested party. The protest committee member was the father of a competitor in the race who was not a party to the hearing. In a comment on the appeal, the protestor argued that the father was not an interested party because the decision on the protest could not affect the relative scores of boats other than the protestor and the protestee, and therefore the father’s participation in the hearing could have no effect on his son’s series position.

### **Decision**

Concerning whether the protest committee member in question was an interested party, the definition Interested Party provides two meanings. The one applicable here is ‘a person who...has a close personal interest in’ a protest committee’s decision. The relationship between a parent and child will almost certainly be a ‘close personal’ one. Therefore a parent on a protest committee would have a close personal interest in the decision on a protest involving parties in a race in which the parent’s child was also a competitor. Accordingly, the father was an interested party and was prohibited from taking part in the hearing, other than to appear as a witness (see rule 63.4).

The reasoning that the father was not an interested party because the decision on the protest could not affect the relative scores of boats other than the protestor and the protestee is incorrect.

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Disqualification of one or both of the original parties to the hearing is not the only possible decision on a protest. Other possibilities include deciding to protest other boats, granting redress to some boats and abandoning the race.

The fact that an interested party was a member of the protest committee and as such took part in the hearing conflicted with the requirements of rule 63.4, and therefore the hearing is nullified. The protest itself was valid, however, and therefore the protestor was entitled to a proper hearing. As permitted by rule 71.2, the protest is to be returned to the regatta's organizing authority to arrange for a new hearing and decision by a new protest committee with no members from the original committee.

#### Current Position

None.

#### Reasons

1. Parents are often asked to be members of protest committees. This appeal makes it clear that a parent is an 'interested party' and therefore cannot be a member of a protest committee for a hearing involving a race their child was racing in.
  2. It explains that even when a disqualification would not affect the parent's child's score, disqualification may not be the only outcome of the hearing; therefore the parent should not be involved at all where he or she may have an influence on the outcome.
  3. It also makes the point that if a hearing involved a member of the protest committee who was an interested party, and if the protest is valid, the hearing should be held, but with a protest committee that does not include an interested party.
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