

## **2008 US Olympic Trials**

### **Class: RS:X Women**

#### **Case 9**

##### **Request for Redress by USA 3 under Rule 62.1(a)**

USA 3 has filed a Request for Redress (RFR) from the Protest Committee's (PC) decision in Case 8 granting redress to USA 323. In other documents the word jury was used in place of PC. PC is used herein, RRS 90(a). A hearing on USA 323 RFR was originally held on October 14, 2007 at the venue and a hearing de novo was held on April 8, 2008 in Providence, Rhode Island. A copy of the PC decisions are attached as Exhibits A and B respectively. The original PC consisted of Larry White, Doug Campbell and Chris Luppens. At the de novo hearing Bill Thorpe and Chip Johns were added. The April 8, 2008 decision was based on the evidence presented on that day.

USA 3 requests redress from the decision of the PC on April 8, 2008 (Exhibit B) and against the Organizing Authority (OA) US Sailing. USA 3 was represented by Douglas D. Smith, Esq. and the OA by Charles A. Cook, Esq. RRS 63.3(a) This hearing and the April 8, 2008 hearing were held pursuant to a Notice of Hearing (NOH) dated March 21, 2008 as amended March 24, 2008 and attached as Exhibit C. The parties were allowed to have observers at both hearings that could not appear as witnesses, RRS 63.3(a). The representatives, witnesses and observers and their capacity are as follows:

#### **Case 8**

##### **Reopening of Request for Redress by USA 323**

**April 8, 2008**

#### **REPRESENTATIVE**

Nancy Rios

#### **OBSERVERS**

Brad Dellenbaugh (Nancy Rios) Present until approximately 3:30

Douglas D. Smith, Esq. (Farrah Hall)

Charles A. Cook, Esq. (Organizing Authority/US SAILING)

Carol Cronin, USOC

John Ruger, USOC

#### **WITNESSES**

Dean Brenner, Chairman of the US Olympic Sailing Committee

Farrah Hall (USA 3)

Karen Marriott (USA 41) (a competitor, for Miss Hall)

Lisa Kremer (USA 118) (a competitor, for Miss Hall)

Barbara Kremer (Parent of USA 118, for Miss Hall)

Morten Christoffersen (Expert witness for Miss Hall; 2 time Olympian, Windsurfing)

Doug Campbell, Protest Committee

Lawrence White, Protest Committee

John C. "Chris" Luppens, Protest Committee

## Case 9

### Request for Redress by USA 3 April 9, 2008

#### REPRESENTATIVES

Douglas D. Smith, Esq. (Farrah Hall)  
Charles A. Cook, Esq. (Organizing Authority/US SAILING)

#### OBSERVERS

John Bertrand (Farrah Hall) Excused mid-day when determined he would be called as a witness  
Carol Cronin, USOC  
John Ruger, USOC

#### WITNESSES

Nancy Rios (USA 337)  
Karen Marriott (USA 41) (a competitor, for Miss Hall)  
Lisa Kremer (USA 118) (a competitor, for Miss Hall)  
Barbara Kremer (Parent of USA 118, for Miss Hall)  
Farrah Hall (USA 3)  
Chris Luppens, Protest Committee  
Doug Campbell, Protest Committee  
Lawrence White, Protest Committee  
Chip Johns, Protest Committee  
Bill Thorpe, Protest Committee  
John Bertrand (declined to testify on April 9, 2008. Both parties agreed to not call him)

#### **Each allegation and the response of the PC follow:**

*1. Granting redress to Ms. Rios despite a lack of any evidence from disinterested parties that Ms. Rios met the requirements for redress under RRS 62.1 (b) or (d).*

##### PC Response:

There was ample evidence to support the PC findings in Ex. A. The PC specifically adopts its decision. Ex. B herein.

*2. Failure to call relevant witnesses present during the event and identified by me whose testimony would help show that Ms. Rios was not entitled to redress.  
Failure to obtain expert testimony that any damage to Ms. Rios sail would not have affected her performance, despite my identification of a experienced expert available to so testify.*

##### PC Response:

The parties provided witness lists pursuant to the NOH and all the listed witnesses were called, if available, at the time of the hearing. See list of witnesses for cases 8 & 9.

*Telephonic witnesses were not allowed (see NOH)*

Photographs were allowed (see NOH ) and were used extensively and considered by the PC.

USA 3 specifically called Morten Christoffersen as an expert witness.

The PC heard sufficient evidence from witnesses, several of whom sailed in Race 16, to make a redress decision in case 8 under the RRS and ISAF Case 19 "Damage."

*3. All three members of the Jury identified themselves as witnesses at the reopened protest committee hearing, and two of the three were listed on the initial decision granting redress to Ms. Rios as witnesses. As a result at least these three members of the Jury must have discussed the evidence among themselves in the process of granting redress to Ms. Rios on October 14, 2007. This violates of the requirement of Rule 63.3(a) that parties are allowed to hear all of the evidence (see US Sailing Judges Manual 6.08.3).*

PC Response:

RRS 66 REOPENING A HEARING states that the original members of the PC shall hear a reopening, if possible. PC deliberations are, except in rare circumstances, closed. Representatives of all parties heard the evidence. There were no evidentiary matters discussed in deliberations that were not advanced at the hearing.

None of the members of the PC were "interested parties" as defined in the RRS and therefore not disqualified from hearing case 8 & 9.

*4. The members of the Jury who were also witnesses continued to serve as members of the Jury despite the fact they had already formed strong opinions about whether Ms. Rios was entitled to redress (US Sailing Judges Manual 6.08.3). They evidenced this strong opinion by granting redress to Ms. Rios at the first hearing on her request without taking any evidence from witnesses other than members of the Jury and Ms. Rios.*

PC Response:

Each of the PC members testified that they approached all of the hearings without bias and preconceived opinions. When questioned, Ms Hall (USA 3) accepted the lack of bias by the members of the PC. See RRS 66 regarding members of the original PC serving on a reopened hearing.

*5. Failure to comply with their obligation to take evidence from appropriate sources under RRS 64.2 by failing to ask relevant questions of witnesses relating to the course sailed by Ms. Rios after the collision while she was still in second place.*

*Failure to comply with any of the requirements of the Due Process Guidelines established by the United States Olympic Committee as applicable to the Jury both as a grievance body or and as a selection committee for an Olympic Selection event.*

PC Response:

The PC called all available witnesses on both parties witness list and all of the witnesses were questioned extensively including other Race 16 competitors and the courses they sailed and the course of USA 323 after the collision. USA 3 extensively cross examined the same witnesses that appeared in case 8. The hearing was held pursuant to the requirements and procedures set forth in the RRS and the US SAILING and ISAF Judges manuals. USA 3 was offered a joint hearing on redress but did not want to proceed under the RRS. A record was made of both hearings. This PC has no authority except under the RRS as modified by the NOR. As a result of two hearings with identical witnesses and an attorney present for USA 3, first as an observer in the reopened case 8 and as the party in case 9, substantially all of the recommendations of the USOC Due Process Checklist were complied with. The exception is the right to an appeal which was denied in this regatta. See NOR and governing documents.

The VMG evidence was not compelling. VMG can vary significantly over a race course by tactical course sailed, wind shifts, number of tacks, variations in wind strength over the course, current and other variables.

The attempt to prove time sequences through the photographs and data from the cameras was not convincing, the time data was not accurate and the position of the photographers changed too much to draw logical and accurate inferences.

The regatta was governed by the RRS and the US SAILING Athlete Selection Procedures-2008 Olympic Games. The USOC Due Process Checklist advanced by USA 3 concerns eligibility questions under the Ted Stevens Olympic and Amateur Sports Act,. There is no eligibility question in this matter. Case 8 RFR was conducted in accordance with the RRS and the NOR.

*Among the specific improper acts or omissions of the Organizing Authority were the following:*

*A. Failure to provide at least one member of the Jury, either in the original hearing, or upon reopening who is fully conversant with the performance of RS:X Windsurfers and the rules and traditions of the class and, experienced in sailboard racing which the ISAF Judge's Manual Section 4.2 identifies as important.*

PC Response:

The members of the PC testified about their experience with board sailing. The RS:X was first introduced to the world in the fall of 2004, the first boards available for distribution in the US arrived in 2005 and thus there are very few people with more experience than these that served. The class rules and traditions if "traditions" could exist for a class that is two years old were never put in evidence. As to rules, the members of the PC had reviewed the class rules, all the rules applicable to the 2008 US Olympic & Paralympic Team Trials – Sailing and Appendix B to the RRS, 'Windsurfing Competition Rules'. The panel consisted of three International Judges (who are also US SAILING Senior Judges) one US SAILING Senior Judge and one A Level Athlete as defined in Article III of the Bylaws of the Sailor Athlete Council of the US Sailing Association.

*B. Failure to provide at least one member of the Jury for the original hearing who is an Athlete Representative as required by the Section 17.7 of the USOC Bylaws.*

PC Response:

Although not required for this PC, Chip Johns is an A Level Athlete and meets the requirement cited above.

*C. Refusing to pay the costs of witnesses called by the Jury fulfilling its obligations under RRS 64.2 to "take evidence from appropriate sources"*

PC Response:

There is no requirement for the OA to pay costs. In any case a PC does not have the authority to order the OA to pay costs of any party.

**CONCLUSIONS AND RULES THAT APPLY:**

USA 3 has presented no evidence that there were any improper acts or omissions of the PC or of the OA. RRS 62.

**DECISION:**

Redress denied.

**Protest Committee:**

Lawrence A. White, Chair; Douglas Campbell; David (Chip) Johns II; John C. (Chris) Luppens; William P Thorpe IV

/s/ Lawrence A. White \_\_\_\_\_  
Lawrence A. White, Chair

April 14, 2008 / 22:00  
Date/Time

# PROTEST FORM

also for requests for redress and reopening

Date & time received 10-14-07 1749 hrs.

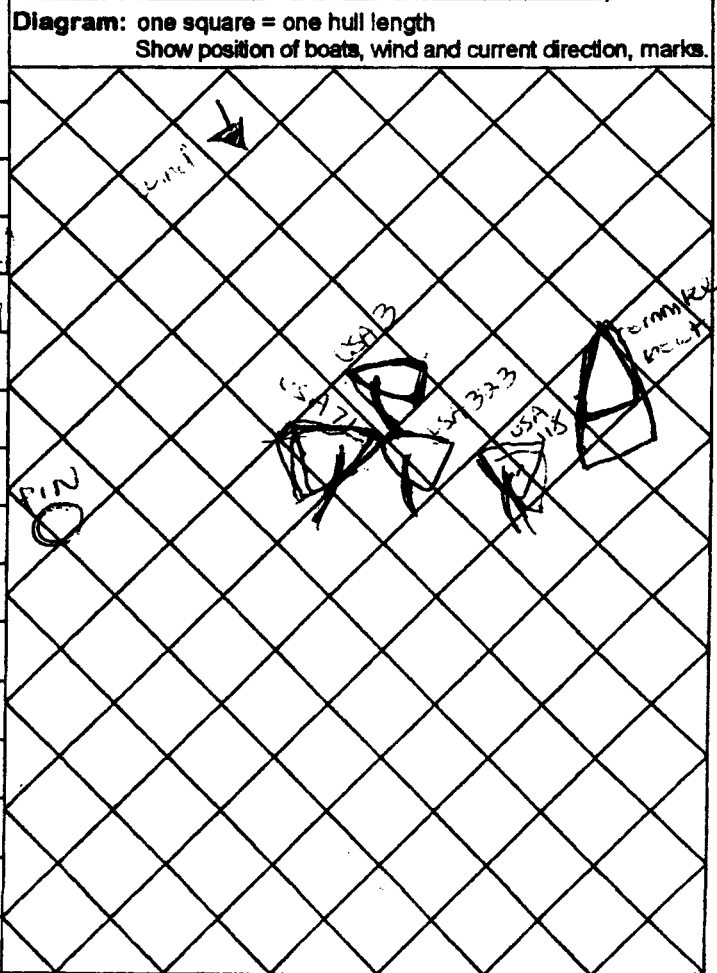
Received by MC Number 8

Fill in and check as appropriate

1. EVENT Olympic Trials Organizing authority \_\_\_\_\_ Date 10-14-07 Race no. 16
2. TYPE OF HEARING  
 Protest by boat against boat  
 Protest by race committee against boat  
 Protest by protest committee against boat  
 Request for redress by boat or race committee  
 Consideration of redress by protest committee  
 Request by boat or race committee to reopen hearing  
 Consideration of reopening by protest committee
3. BOAT PROTESTING, OR REQUESTING REDRESS OR REOPENING  
Class RSX Sail no. USA 323 Boat's name \_\_\_\_\_  
Represented by Nancy Rios Tel. 321 960 0368 E-mail niosnade@yahoo.com
4. BOAT(S) PROTESTED OR BEING CONSIDERED FOR REDRESS  
Class RSX Sail no. USA 71 Boat's name \_\_\_\_\_
5. INCIDENT  
Time and place of incident 10-14-07 Race #16 Starting Line  
Rules alleged to have been broken 62.1(b) Witnesses USA 118 Lisa Kramer
6. INFORMING PROTESTEE How did you inform the protestee of your intention to protest?  
 By hailing When? \_\_\_\_\_ Words used \_\_\_\_\_  
 By displaying a red flag When? \_\_\_\_\_  
 By informing her in some other way Give details yelled Starboard + after collision yelled protest

7. DESCRIPTION OF INCIDENT  
(use another sheet if necessary)

After the starting horn of race #16 USA 71 sailing on PORT TACK off the starting line collision with me while on starboard tack USA 71 caused damage to my sail during the collision. I did not see USA 71 do her penalty turn. The damage to my sail caused me to not be able to sail properly the entire rest of the race.



**THIS SIDE FOR PROTEST COMMITTEE USE**  
 Fill in and check as appropriate

Number   C    
 Heard together with numbers \_\_\_\_\_

Withdrawal requested; signature \_\_\_\_\_  Withdrawal permitted  
 Protest time limit 1800  Protest, or request for redress or reopening, is within time limit  Time limit extended  
 Protestor, or party requesting redress or reopening, represented by NANCY RIOS  
 Other party, or boat being considered for redress, represented by N/A  
 Names of witnesses DOUGLAS CAMPBELL, LARRY WHITE, JURY MEMBERS

Interpreters _____	Remarks
Objection about interested party .....	<input type="checkbox"/> <u>NO</u>
Written protest or request identifies incident .....	<input checked="" type="checkbox"/> <u>-</u>
'Protest' hailed at first reasonable opportunity .....	<input checked="" type="checkbox"/> <u>-</u>
No hail needed; protestee informed at first reasonable opportunity .....	<input type="checkbox"/> <u>N/A</u>
Red flag conspicuously displayed at first reasonable opportunity .....	<input type="checkbox"/> <u>N/A</u>

Protest or request valid; hearing will continue  Protest or request invalid; hearing is closed

**FACTS FOUND**

1. 323 ON STARBOARD FROM PORT IMMEDIATELY AFTER START OF RACE 16 CAME INTO HARD CONTACT
2. 71 DID A 360 PENALTY TURN WITHIN 20 SECONDS OF THE COLLISION AFTER CLEARING ALL OTHER BOATS
3. THE COLLISION CAUSED AN 8" TO 10" LONG TEAR IN THE THIRD PANEL OF 323'S SAIL TOWARDS THE LEEE OF THE SAIL
4. 323 FINISHED FOURTH IN RACE 16
5. IN RACE 15, THE FIRST RACE OF THE DAY IN SIMILAR CONDITIONS, 323 FINISHED IN 2ND POSITION
6. #71 SKIPPER MONICA WILSON LEFT VENUE FOLLOWING LAST RACE OF DAY AND WAS UNAVAILABLE.

Diagram of boat \_\_\_\_\_ is endorsed by committee.  Committee's diagram is attached.

**CONCLUSIONS AND RULES THAT APPLY**

1. 71 CAUSED SERIOUS DAMAGE TO THE SAIL OF 323, RRS 44.1 APPLIES. HOWEVER NO ADDITIONAL PENALTY WILL BE APPLIED SINCE RACE 16 WAS 71'S THROUSET RACE
2. 323 GRANTED REDRESS IN RACE 16 RRS 62.1(2) - APPENDIX B4.2
3. REDRESS TO 323 IS 6 POINTS UNDER APPENDIX A10(3).

**DECISION**

Protest:  dismissed Boat(s) \_\_\_\_\_ is (are)  disqualified  penalized as follows \_\_\_\_\_

Redress:  not given  given as follows 323 SCORED 2 POINTS IN RACE 16

Request to reopen a hearing:  denied  granted

**PROTEST COMMITTEE**

Members LARRY WHITE CHRIS LUTTENS Doug Campbell  
 Chairman's signature Lwhite Date & time 10/14/17  
 Written decision requested \_\_\_\_\_  
 When \_\_\_\_\_  
 By whom \_\_\_\_\_  
 Date provided \_\_\_\_\_

1916

## Exhibit B

2008 US Olympic Team Trials  
Class: RS:X Women

Request for Redress by USA 323 in Race 16  
Re-opening of Case #8 under RRS 66

### FACTS FOUND

1. At the start of Race 16 of the RS:X 2008 Women's Olympic Trials the wind speed was 10 -12 knots, with choppy seas.
2. USA 323 started on starboard to leeward and overlapped with USA 3. USA 3 was in first place and USA 323 was in second place.
3. USA 71 started at the pin on port and collided with USA 3 and then collided with USA 323.
4. USA 71 and USA 323's rigs hit causing a diagonal tear in the third panel up of USA 323's sail approximately 4 to 5 inches long and approximately 2 feet aft of the spar. The tear increased to a length of 9 to 10 inches during the race.
5. The position of the boats made it impossible for USA 323 to avoid a collision with USA 71.
6. USA 323's performance during the race was adversely affected by the tear in the sail.
7. Due to the collision USA 323's sail dropped into the water and the boat lost approximately 30 to 40 seconds shortly after the start.
8. USA 323 finished 4<sup>th</sup>.
9. USA 71 was scored RAF.

### CONCLUSIONS AND RULES THAT APPLY


1. USA 71 failed to keep clear of USA 323 and broke RRS 10 and RRS 14.
2. USA 323's score in Race 16, through no fault of her own, was made significantly worse by physical damage because of the action of USA 71 that broke a rule of Part 2.
3. USA 323's score in Race 16 was made significantly worse because USA 71 failed to keep clear.
4. Rules applicable: RRS 10; RRS 14; RRS 62.1(b); RRS 62.1(e) (reference Appendix B 7.2); RRS 64.2; and Appendix A 10(a).

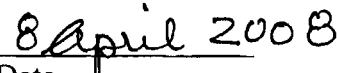
### DECISION

USA 323 is given redress by adjusting her boat's score for Race 16 to points equal to the average of her points in all the races in the series except Race 16.

Jury:

Lawrence White, Chair; Douglas Campbell, David Johns II (Chip); John C Luppens; William P. Thorpe IV

  
Lawrence White, Chair

  
Date

**Exhibit C**

**US OLYMPIC TRIALS - SAILING**

**RS:X, WOMEN**

**NOTICE OF HEARING**

**REQUEST FOR REDRESS BY NANCY RIOS**

**(MARCH 21, 2008)**

**(AMENDED MARCH 24, 2008)**

**1. SUBMISSIONS**

The jury has received and considered submissions from lawyers representing Nancy Rios, Farrah Hall and the Organizing Authority. This Notice of Hearing is in response to those submissions and replaces the Notice of Hearing distributed on March 13, 2008.

**2. CONSIDERATION OF REDRESS FOR FARRAH HALL**

The jury's decision to consider redress for Ms. Hall, and Ms. Hall's objection to 3 members of the jury with respect to that consideration, are premature. Since the redress proceeding for Ms. Rios has not been concluded, it is unclear whether or not consideration of redress for Ms. Hall will be necessary. Should Ms. Hall be dissatisfied with the jury's decision in the redress proceeding for Ms. Rios, Ms. Hall may submit a timely request for redress and raise at that time any objections to the composition of the jury that would otherwise conduct a hearing with respect to Ms. Hall's request for redress.

In light of the above, the jury's decision to open a redress proceeding for Ms. Hall is rescinded as premature.

**3. NOTICE OF HEARING BASED UPON DECISION OF THE JURY IN THIS HEARING**

As stated above, the Racing Rules of Sailing ("RRS") permit Ms. Hall to submit a timely request for redress in the event she is dissatisfied with the jury's decision in Ms. Rios' redress hearing

By the same token, the RRS permit Ms. Rios to submit a timely request for redress or a request to reopen.

The jury has issued a separate Notice of Hearing that will be applied in the event either athlete chooses to do so.

#### 4. PROCEDURES

The hearing will be conducted in accordance with the RRS. The sole issue to be considered by the jury will be Ms. Rios' request for redress.

The hearing will commence at 0900 hours on April 8, 2008 at the offices of Morrison Mahoney LLP, 10 Weybossett Street, Providence, Rhode Island.

#### 5. CONSIDERATION OF NANCY RIOS' REQUEST FOR REDRESS

The hearing is a continuation of the hearing held in October, 2007. Ms. Rios' status at the upcoming hearing remains unchanged – as her own representative.

#### 6. TESTIMONY

The jury will consider calling as witnesses any individual whom Ms. Hall believes may have information relevant to Ms. Rios' request for redress. Ms. Hall should provide the jury with a list of proposed witnesses no later than April 4, 2008. The list shall identify the proposed witnesses by name, address, and anticipated testimony. The list will be distributed electronically to each person on the attached service list.

Ms. Rios may call as witnesses any individual whom she believes may have information relevant to her request for redress. Ms. Rios should provide the jury with a list of proposed witnesses no later than April 4, 2008. The list shall identify the proposed witnesses by name, address and anticipated testimony. The list will be distributed electronically to each person on the attached service list. Ms. Rios may call witnesses not appearing on the witness list only in exceptional circumstances.

Ms. Hall is invited to attend and provide testimony as a witness.

#### 7. FORM OF TESTIMONY

In order to provide the opportunity to question witnesses, testimony must be presented in person. Except as stated in the following paragraph, video or telephonic testimony will not be accepted. Witness statements will not be accepted as they are prohibited by the RRS.

The jury may take telephonic testimony from photographers solely for the purpose of establishing the provenance of photographs to be considered by the jury.

#### 8. RECORDINGS

No witness, party or observer shall record the hearing.

The jury will arrange to have the hearing recorded. Ms. Rios or Ms. Hall may arrange to purchase a copy of the recording at the actual cost of reproduction.

## 9. PHOTOGRAPHIC EVIDENCE

The jury will consider photographic evidence offered by either Ms. Rios or Ms. Hall only in accordance with the following procedures:

- The photographer(s) will download all photographs to be considered onto CDs or DVDs and send one copy to each person on the service list together with a copy of a statement addressing those items in the bullets below. Alternatively, the photographer may provide a digital copy of all photographs to be considered and a copy of the statement called for below to the legal counsel having arranged for or otherwise obtained such photographs, and such counsel may copy and distribute the statement called for below and CDs or DVDs containing the photographs to each person on the service list as they would normally do for the duplication of digital files in their normal course of business. Persons on the service list may elect to receive the photographs by FTP (file transfer protocol) if offered by the photographer or the legal counsel who arranged for or otherwise obtained such photographs. The attorneys for the parties and U.S. Sailing have each agreed that such actions by counsel shall not constitute a waiver of any attorney-client privilege, and that no attorney from each party's respective firm (including any retired partners) will be called upon to testify about the copying and distribution of the photographs, including in any subsequent or pending legal proceedings relating to this hearing;
- The photographer(s) will preserve all metadata and leave each file as originally created;
- If the photographer has altered/deleted any photograph, he/she shall provide a statement concerning the alteration or deletion;
- The photographer will state his/her name, address and relationship, if any, to anyone on the attached service list;
- The photographer will state the date and time the photographs were taken;
- The photographer will identify the camera and lens used, and specify the maximum resolution of the camera and the resolution actually used for each photograph; and
- Each of the above must be received no later than March 27, 2008.

## 10. SAIL

Nancy Rios shall bring the sail used in Race 16 of the RS:X Olympic Trials, Women's to the hearing.

Nancy Rios shall arrange to have the following steps taken:

- Photographs of the sail in its current condition;
- Remove any tape covering damage in the area(s) in question;
- Use the sail in 10 to 15 knots;
- Photographs while sailing in 10 to 15 knots, all photographs shall be taken from approximately 100 meters away using a camera/lens of no less than 8 megapixels;
- The photographs shall include shots from leeward while the sailor is reaching;
- The photographer shall deliver the photographs and statements as outlined in 9, above, no later than March 27, 2008;
- Nancy Rios will provide Farrah Hall with 48 hours notice of the location, date and time that the above will be conducted; and
- Farrah Hall will be permitted, at her expense, to have an observer present.

11. OBSERVERS

Ms. Rios, Ms. Hall and the organizing authority may each have one observer, who may be that person's counsel, present throughout the hearing. The requirements for observers have been distributed.

12. EXPENSES

Ms. Rios shall be responsible for any costs associated with (i) her attendance, (ii) the attendance of her observer and any witnesses called by her, (iii) any photographic evidence she wishes to submit, and (iv) transporting the sail to the hearing.

Ms. Hall shall be responsible for any costs associated with (i) her attendance, (iii) any photographic evidence she wishes to submit, and (iii) the attendance of her observer and any witnesses she requests the jury to call.

US SAILING shall be responsible for any costs associated with (i) recording the hearing (except as to the actual cost of providing copies of the recording if requested) and (ii) the attendance of its observer.

/s/ Lawrence A. White

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Lawrence A. White  
Jury Chairman  
March 24, 2008

## **Service List**

### **Jury**

#### **Lawrence A. White -Chairman**

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#### **Parties**

##### **Nancy Rios**

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##### **Farrah Hall**

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#### **Organizing Authority**

##### **Jim Capron – President US SAILING**

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I believe my score in the US Olympic Trials - Sailing; RS:X, Women was made significantly worse by improper acts or omissions of the members of the Jury (protest committee) which granted redress to Nancy Rios for that event. The members of the Jury were Lawrence A. White, Chairman, I Douglas Campbell, Chip Johns, John C. "Chris" Luppens and Bill Thorpe. I also believe that my score in the US Olympic Trials - Sailing; RS:X, Women was made significantly worse by improper acts or omissions of the Organizing Authority, US Sailing.

As a result I request redress under Racing Rule of Sailing 62.1(a) .

Among the specific improper acts or omissions of the Jury were the following:

- Granting redress to Ms. Rios despite a lack of any evidence from disinterested parties that Ms. Rios met the requirements for redress under RRS 62.1 (b) or (d).
- Failure to call relevant witnesses present during the event and identified by me whose testimony would help show that Ms. Rios was not entitled to redress.
- Failure to obtain expert testimony that any damage to Ms. Rios sail would not have affected her performance, despite my identification of a experienced expert available to so testify.
- All three members of the Jury identified themselves as witnesses at the reopened protest committee hearing, and two of the three were listed on the initial decision granting redress to Ms. Rios as witnesses. As a result at least these three members of the Jury must have discussed the evidence among themselves in the process of granting redress to Ms. Rios on October 14, 2007. This violates of the requirement of Rule 63.3(a) that parties are allowed to hear all of the evidence (see US Sailing Judges Manual 6.08.3).
- The members of the Jury who were also witnesses continued to serve as members of the Jury despite the fact they had already formed strong opinions about whether Ms. Rios was entitled to redress (US Sailing Judges Manual 6.08.3). They evidenced this strong opinion by granting redress to Ms. Rios at the first hearing on her request without taking any evidence from witnesses other than members of the Jury and Ms. Rios
- Failure to comply with their obligation to take evidence from appropriate sources under RRS 64.2 by failing to ask relevant questions of witnesses relating to the course sailed by Ms. Rios after the collision while she was still in second place.
- Failure to comply with any of the requirements of the Due Process Guidelines established by the United States Olympic Committee as applicable to the Jury both as a grievance body or and as a selection committee for an Olympic Selection event

Among the specific improper acts or omissions of the Organizing Authority were the following:

- Failure to provide at least one member of the Jury, either in the original hearing, or upon reopening who is fully conversant with the performance of RS:X Windsurfers and the rules and traditions of the class and, experienced in

sailboard racing which the ISAF Judge's Manual Section 4.2 identifies as important

- Failure to provide at least one member of the Jury for the original hearing who is an Athlete Representative as required by the Section 17.7 of the USOC Bylaws
- Refusing to pay the costs of witnesses called by the Jury fulfilling its obligations under RRS 64.2 to "take evidence from appropriate sources"

Witnesses: The following persons are available to give testimony in person: Karen Marriott, Lisa Kremer, Barbara Kremer, Morten Christoffersen, Farrah Hall, Nancy Rios

The following persons are available to give testimony by telephone: Peter Wells, Carroll Ann Rosenberg, Bruce Peterson I hereby request modification of the presumptive Notice of Hearing relating to my request for redress to allow telephonic testimony of all witnesses, both those that I call, and any called by the Jury.

My request for redress is based on my belief that my score in the US Olympic Trials - Sailing; RS:X, Women was made significantly worse by improper acts or omissions of the members of the Jury Accordingly, under RRS 63.4 I believe Lawrence A. White, Chairman, I Douglas Campbell, Chip Johns, John C. "Chris" Luppens and Bill Thorpe are each an *interested party*, and on that basis object to their taking any further part in my request for redress. I would welcome their continued participation as witnesses.

My request for redress is also based on my belief that my score in the US Olympic Trials - Sailing; RS:X, Women was made significantly worse by improper acts or omissions of the Organizing Authority. Accordingly, under RRS 63.4 I believe any member of the Jury that is a Judge certified by US Sailing would be an *interested party*, and on that basis object to their taking any part in my request for redress. Instead I request that the Jury that considers this request for redress be made up of International Judges certified by ISAF who are not members of US Sailing.

Thank you for your prompt consideration of my request

Respectfully Submitted

Farrah Hall

For Case 9  
(Fiscal Hall)

**US OLYMPIC TRIALS - SAILING**

**RS:X, WOMEN**

**NOTICE OF HEARING**

**REQUEST FOR REDRESS BY AND/OR REQUEST TO REOPEN**

**FILED BY: TBA**

**(MARCH 21, 2008)**

**1. NOTICE**

This notice is provided to both Ms. Hall and Ms. Rios in the event one of them chooses to submit a request to reopen or a request for redress based upon the jury's decision in the matter of Nancy Rios' request for redress. In this notice, the word "Requestor" will mean the athlete submitting the request(s). The term "Other Athlete" will mean the athlete who has not submitted the request(s).

Any request for redress or request to reopen must be timely submitted and comply with the requirements stated in the Racing Rules of Sailing ("RRS").

**2. PROCEDURES**

The hearing will be conducted in accordance with the RRS. The sole issue to be considered by the jury will be the Requester's entitlement to redress or reopening under the RRS.

**3. LOCATION, DATE AND TIME**

The hearing will commence at 0900 hours on April 9, 2008 at the offices of Morrison Mahoney LLP, 10 Weybossett Street, Providence, Rhode Island.

**4. PARTICIPATION BY REQUESTOR**

The Requestor may as permitted by the RRS choose to have a representative have the status of a party under the RRS.. As set forth in the RRS, that representative will provide testimony and may be questioned by the jury.

In the event the Requestor chooses to have a representative, the Requestor will be asked to provide testimony.

**5. TESTIMONY**

The Requestor (or her representative if applicable) may call as a witness any individual listed on the witness list submitted by her in connection with the hearing on Nancy Rios' request for

redress. The Requestor (or her representative if applicable) may call witnesses not appearing on her witness list only in exceptional circumstances.

The jury will consider calling as a witness any individual who the Other Athlete believes may have information relevant to the request for redress or request to reopen so long as the proposed witness is listed on the witness list submitted by her in connection with the hearing on Nancy Rios' request for redress.

The Other Athlete will be invited to attend and provide testimony as a witness.

#### 6. FORM OF TESTIMONY

In order to provide the opportunity to question witnesses, testimony must be presented in person. Video or telephonic testimony will not be permitted.

#### 7. RECORDINGS

No witness, party, representative or observer shall record the hearing.

The jury will arrange to have the hearing recorded. Ms. Rios or Ms. Hall may arrange to purchase a copy of the recording at the actual cost of reproduction.

#### 8. PHOTOGRAPHIC EVIDENCE

Photographic evidence presented to the jury in the matter of Nancy Rios' request for redress may be considered in this hearing.

#### 9. OBSERVERS

Ms. Rios, Ms. Hall and the organizing authority may each have one observer, who may be that person's counsel, present throughout the hearing. The requirements for observers have been distributed.

#### 10. EXPENSES

Ms. Rios shall be responsible for any costs associated with her attendance and the attendance of her representative (if applicable), her observer and any witnesses appearing on her witness list.

Ms. Hall shall be responsible for any costs associated with her attendance and the attendance of her representative (if applicable), her observer and any witnesses appearing on her witness list.

US SAILING shall be responsible for any costs associated with (i) recording the hearing (except as to the actual cost of providing copies of the recording if requested) and (ii) the attendance of its observer.

/s/ Lawrence A. White

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Lawrence A. White  
Jury Chairman  
March 21, 2008