

QUESTION 112

Interpretation Requested by the San Diego Yacht Club

Introduction Definitions, Party

Interpretations of the definition Party and rule 63.3 concerning representation in hearings, and a discussion regarding the terms in Terminology in the Introduction of The Racing Rules of Sailing.

Question 1

In a protest hearing, who or what is considered a “protestor” and a “protestee” in the definition Party and therefore has “a right to be present throughout the hearing of all the evidence” under rule 63.3(a), Hearings; Right to Be Present?

Answer 1

A “protestor” is a boat or committee that has acted under rule 60, Right to Protest; Right to Request Redress or Rule 69 Action. A “protestee” is the boat being protested.

Question 2

It is stated in Terminology in the Introduction of *The Racing Rules of Sailing* that “boat” means “a sailboat and the crew on board.” If a party (as defined in the definition Party) is a boat, is the party entitled to have more than one member of the crew present throughout the hearing, or is the party required to select a single representative to be present on the party’s behalf throughout the hearing of all the evidence?

Answer 2

The rules do not directly discuss the question of whether more than one person who was on a boat during the race may represent that boat during a hearing. However, Appendix M, which is advisory, advises the protest committee to “make sure that . . . only one person from each boat (or party) is present [during the hearing] unless an interpreter is needed.” That practice is also recommended in the US Sailing Judge’s Manual and is generally used around the world. The reason usually given for this practice is that if a crew member testifies as a witness in a hearing, the testimony will be more credible if the crew member is not present when the boat’s representative describes the incident in question.

Question 3

Once a person is designated as the boat’s representative and appears at a hearing, is that person the only person who may act as the “party” on behalf of the boat for all subsequent hearings or other interactions with the organizing authority, race committee or protest committee?

Answer 3

No. The person or persons having the authority to designate a boat’s representative (for example, an owner or co-owners) may terminate the appointment of one representative and appoint another one.

Question 4

If the answer to Question 3 is “No,” then who are the person(s) entitled to represent the boat and act as the party?

Answer 4

A boat's representative can be any person designated by the person or persons having the authority to do so, with the exception that at a hearing of a protest claiming a breach of a rule of Part 2, 3 or 4, the representative "shall have been on board at the time of the incident." See rule 63.3(a).

Question 5

In the definition Party, the last sentence states "However, the protest committee is never a party." The definition Party states in part "A party to a hearing is . . . (c) for a request for redress under rule 62.1(a): the body alleged to have made an improper action or omission." Rule 62.1(a) states that "an improper action or omission of the race committee, protest committee, . . ." may be the basis of a claim for redress. If it is a protest committee whose alleged error or omission is the reason for a request for redress, how can the protest committee be both a party and never a party?

Answer 5

The term "protest committee" in the last sentence of the definition Party means the protest committee holding the hearing. If Protest Committee A is the body alleged to have made an improper action or omission, and the hearing is held by a separate protest committee (B), then Protest Committee A will be represented in the redress hearing as a party, and Protest Committee B is the protest committee referred to in the last sentence of the definition.

Question 6

What is the significance, if any, of placing the definitions of some terms in Terminology in the Introduction to *The Racing Rules of Sailing* instead of in the Definitions?

Answer 6

The terms defined in the Definitions are terms that have a special definition for the sport that is necessary for understanding the rules in which those terms appear. Readers are informed that a defined term is being used in its defined sense by showing the term in italics. The terms defined in Terminology are frequently used terms with quite simple definitions. When used, they do not appear in italics. If they were to appear in italics, the readability of the rulebook would be diminished.

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