

APPEAL 122

Sail 6 vs. White Flag and Gold Flag

Rule 61.1(a), Protest Requirements: Informing the Protestee

The “first reasonable opportunity” to hail “Protest” is the first reasonable time after an incident when a boat is able to hail “Protest,” which is usually immediately.

Facts and Decision of the Protest Committee

White Flag (X) and *Gold Flag* (Y) were approaching the starting line to start. Approximately four seconds before the starting signal, X and Y had contact. *Sail 6* (Z), who was two lengths behind X and Y, immediately hailed for someone to do a penalty. When neither boat took a penalty, Z hailed that she would protest both boats if neither took a penalty. Approximately 15 seconds after the incident Z hailed “Protest *White Flag* and *Gold Flag*.”

The protest committee decided the protest was valid, claiming that Z had to wait until she was reasonably sure that neither X nor Y were going to protest or exonerate themselves after the contact occurred. It believed this was “reasonable” and therefore within the interpretation of “first reasonable opportunity” as required in rule 61.1(a). It disqualified X, who appealed.

Decision of the Appeals Committee

The second sentence of rule 61.1(a) required Z to hail “Protest” “at the first reasonable opportunity” which means the first reasonable opportunity after the incident. We note that the requirement is the same whether the protesting boat is involved in, or merely saw, the incident. No additional time is permitted for a protest by a boat that was not involved in the incident.

The phrase “first reasonable opportunity,” as that phrase is used in rule 61.1(a), means the first time it is practicable for a boat to hail “Protest;” i.e., when the boat is able to hail. Because hailing “Protest” is relatively easy, there are few reasons that will justify a delay. The first reasonable time a boat is able to hail “Protest” is usually immediately (see Appeal 61).

In this case, Z made three hails. Although she used the word “protest” in her second hail, the word “protest” was used in a sentence that did not convey the meaning “I intend to protest.” Her hail “Protest” approximately 15 seconds after the incident, with no mitigating circumstances that prevented a hail of “Protest” from being made much sooner, is later than the “first reasonable opportunity” to make the hail. Therefore Z did not comply with the hail requirement in rule 61.1(a) and the protests against X and Y are invalid. The hearing should have been closed (see rule 63.5, Validity of the Protest or Request for Redress).

White Flag’s appeal is upheld, the hearing is voided, and *White Flag* is reinstated in her finishing place in the race.

We note that if Z had complied with rule 61.1(a), she would not have been required to file her protest. She might decide not to file if one of the protested boats took a penalty or if one of the protested boats hailed “Protest” to the other boat. However, Z must comply with rule 61.1(a) in order to preserve her ability to file a valid protest later.

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