

By David Weil

Question:

I am an active yacht racer in the Bay Area, and I was involved a collision with another boat earlier this summer. The other boat hit us pretty hard, but they suffered only a small amount of damage to their bow pulpit and bow stem. My boat was significantly damaged with a huge hole in the side of the boat. Luckily no one was injured. I had the right of way, but the other boat claimed that I failed to avoid a collision and we both filed protests after the race. After reviewing the evidence and hearing witness testimony, the protest committee ruled against both boats and we were both disqualified from the race. I have been advised that since each boat was found by the protest committee to be at fault, we each need to bear the cost to repair our own boat. That's fine for him, since his boat was barely damaged, but I am looking at thousands of dollars in repairs. What are my legal rights if I take this case to Court?

Answer:

By Karen K. Campbell

Renewals for 2018 are underway. The fleet secretary has been working extremely hard to keep up with the renewal applications. For those that are planning on racing just as soon as possible after ringing in the New Year, please submit and pay for your 2018 renewals right away. Online payment is available.

CORINTHIAN ADJUSTMENTS:
The Data Systems Manager has been working with the Fleet Secretary to make a request for Corinthian Rating Adjustment to be a simple and pain free as possible. Please refer to PHRF SoCal's website for more information.

Yacht racing collisions often lead to interesting questions concerning the interaction between the protest committee and a courtroom.

Protest committees are convened by the organizing yacht club for a race or regatta to resolve various disputes that arise between competitors. These protests may involve collisions, but they often involve less dramatic encounters for failure to yield the right of way or give a boat room to maneuver or room to round a mark.

Protests are resolved under a collection of rules known as the Racing Rules of Sailing (RRS). These rules are published every four years by the International Sailing Federation, and they are administered in this country by US Sailing and by the organizers of individual races and regattas. Courts in this country have held that when racers participate in a yacht race for which published rules set out the conditions of participation, a private contract results between the participants, which requires them to adhere to those rules.

Among its other provisions, the RRS require competitors to resolve their

disputes through a protest committee, and in fact Rule 3 expressly prohibits a participant from taking a dispute to court for the purpose of assigning fault. Courts have therefore held that a protest hearing amounts to a form of binding contractual arbitration to resolve the question of who is at fault in a racing dispute.

Unfortunately, the allocation of fault may not fully resolve a dispute when a collision results in a significant amount of damage, because it does not provide a mechanism for allocating the cost of repairs. RRS Rule 68, as amended in this country by US Sailing, specifically prohibits a protest committee from adjudicating a claim for damages and further provides that such a claim is subject to the jurisdiction of the courts rather than a protest committee. So, it is possible that competitors involved in a collision may end up in court.

When a racing collision dispute leads to a lawsuit, the Court will rely on the findings of the protest committee to determine who was at fault, and then consider new evidence to allocate the cost of repairs. This new evidence may

include shipyard bills or estimates, testimony from expert witnesses such as marine surveyors or shipyard managers, and other testimony or documentation to establish the cost of repairs. The Court may then order the party who was found to be at fault by the protest committee to pay the cost of repairs to the other party.

Our reader's case presents a bit of a twist, since the protest committee found both parties to be at fault for the collision and both boats were disqualified. The fact that both parties suffered the same fate with regard to the race results does not, however, mean that they will each be responsible for the cost of repairs to their own boat.

Maritime law operates under an umbrella of "comparative fault," where a judge or jury will assign a percentage of responsibility to each party. For a yacht collision case where a protest committee found both parties to be at fault, a court would probably assign fault on a 50/50 basis to each party. In our reader's case, that 50 percent factor would then be assigned to the total amount of damage to both boats,

collectively. So, if the cost of repairs to our reader's boat amounted to \$10,000.00 and the cost to repair the other boat was \$2,000.00, the total repair bill for both boats would be \$12,000.00. Each party would then be responsible for half of that amount, or \$6,000.00.

Most of these disputes are handled through the insurance companies for the two boats, and as such there is little need for a boat owner to get involved at the level that we have discussed here. Nonetheless, a competitor involved in a significant racing collision should contact an experienced maritime attorney to guide him or her through the process, especially if there are questions of insurance coverage or other legal issues that may cost a competitor real money out of pocket.

David Weil is licensed to practice law in the state of California and, as such, some of the information provided in this article may not be applicable in a jurisdiction outside of California. Please note also that no two legal situations are alike, and it is impossible to provide accurate legal advice without knowing

all the facts of a particular situation. Therefore, the information provided in this article should not be regarded as individual legal advice, and readers should not act upon this information without seeking the opinion of an attorney in their home state.

-David Weil is on the Executive Board of PHRF of Southern California and serves as Judge Advocate for the organization. This article originally appeared in his "Ask a Maritime Attorney" column in the September 23, 2016 edition of "The Log" newspaper and is reprinted here with permission.

Wrong Place, Wrong Time! **By David Haas**



For many of us Racers, we are always looking to stay on the "right" side of the course, sail the lifted tack, and get clear air, but occasionally this means ending up where we don't want to be, in the middle of the shipping lanes of LA Harbor. Sunday's Two Gates Race in LA/LB Harbor provided to be such a moment when a member of the fleet got caught in front of a ship coming into port. Most of fleet in the race heard and commented on the 5 blasts from the ship - it was in response to this incident. The photo was taken by Bob Blair, who is on the LBYC

Board of Directors and who is also a Long Beach Harbor Pilot. He was the pilot aboard the ship at the time of the incident. The photo is a good "what-not-to-do" photo. The Coast Guard has actually considered banning this race because of incidents like this, and when one competitor takes a risk like this it sheds a bad light on all of us.

It's important to always use sound judgement when navigating the harbor during a race to stay safe and to keep in good standing with local officials.

Have a Happy New Year!

Disabled Sailing, What's That? **By David Trude**

David Trude is the Area A Rep to the PHRF Regional Board. He started sailing in the early 70's and was full-on into racing by 1976 at the age of 18 when he also started making sails with Gary Swenson and Dave Klatt.

In 1997 an industrial accident took away his legs with a Spinal Injury but not sailing. Trying the Paralympic thing but finding it way too expensive he took to local sailing. Finding a Bruce King designed, Zap 26 that needed some TLC, he was soon out in the PHRF fleet. Without my legs, all I can really do is drive, so I concentrate on fast. Other owner drivers get distracted, where I leave the boat workings pretty much to my #1 and #2, Kim Weir and Scott Nordeng. The formula must work because we win our share of races.

Photo: Spanking the B Fleet at the start of the 2017 Ventura Cup



and finishing



One of the best parts of owning a boat is puttering on it. How do you get up and down from a boat with a draft of 5.5" while it is on a Trailer? After we haul the boat, Kim or Scott strap around the end of the boom a 4:1 purchase. I use my electric chair which is wide enough to accommodate my bosun's chair and I hook up to the

purchase and haul my ass up to deck level and swing in (sorry, no videos of this yet).
It's a great view of the Pierpont Bay here in Ventura from my boat at VntYC.

You named your boat sail # 56267, "Gumbercules". What the hell is a Gumbercules?
He's as Flexible as Gumby and as Strong as Hercules, He's Gumbercules!

Here is a 12 minute edit of a 1.5 hour 2016 Wet Wednesday race in 18knts of wind.
Wet and wild. You can see how I have to strap in to sail in a breeze.
https://www.youtube.com/watch?v=_Vz3nLGC_Ek

Here is a vid of some real fun, Land Sailing. After discovering what it felt like to do 50
knts sailing without spending a fortune, I kept it up and in 2016 took second at the
OD Blokart North Americans and third in the Worlds at the Ivanpah Dry Lake Bed on
the CA / NV state line on the I 15. It is a full 8 minute race and 2 minute start
sequence unedited. Skip to the 1minute 20 second mark and the 2 minute start
sequence starts. In this event the Light and Middle Weight classes race together so I
am only racing against 1/2 the fleet.....year right. Notice the big van and wheelchair
in the background. <https://www.youtube.com/watch?v=cr1dQQZ9WZFs>

More videos of Dave sailing can be found on his You Tube Channel.
<https://www.youtube.com/channel/UCujoGJLdmZodqf67iL36TIA>

When Asked what his sailing plans for 20018 were, he responded, I'd like to travel
south and do the NP2SD, but the USS Ser for such a short coastal rated race are a
bit extreme and I do not think I can qualify without spending a small fortune. Then, I'd
like to do the Yachting Cup, Cal RW and LBRW. But without legs, I have to rely on
everyone to help with the deliveries, rigging and un rigging. I can drive the van and
trailer and work the hoist but I cannot do the mast thing when we step it. It is tough
because everyone has work or school and taking the time to do deliveries, land or

sea, and race is a hit/miss situation. It's a ton of work and commitment.

PHRF SoCal **By Jamie Myer**

PHRF SoCal is made up of 8 Areas, which are denoted by letter. Each boat in PHRF SoCal has a "Regional Rating", sometimes called a "base rating", which is good throughout the area. This Regional Rating is assigned based on observed performance of the boat, in either stock or modified condition, in 8-12 knots of wind, and presumed to be sailed competitively.

As conditions vary throughout Southern California, PHRF SoCal's individual Area boards are used to further refine a boat to race fairly in her home waters. The Area Board is able to vary a boat's rating by up to 12 seconds/mile depending on local conditions. If you would like to request an Area Rating Review, information is available here: <http://www.phrfsocal.org/rating-review/>

Lastly, the Area Boards are made up of volunteers, and most areas are looking for members willing to share their time, experience and energy to keep us all racing and having fun. If you'd like to be a part of the PHRF process, please reach out: here is a list of your local Area Representatives <http://www.phrfsocal.org/contact-us/>.

Jamie Myer is owner and skipper of [WOLFHOUND](#)
an 11 Meter One Design
Berthed in Marina del Rey, CA



For questions, comments or to submit an article for consideration please contact David Haas at davidhaasmail@gmail.com

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