



**YACHT RACING ASSOCIATION
FORT MASON CENTER
SAN FRANCISCO, CALIFORNIA 94123
415-771-9500 - fax 415-276-2378
E-mail = info@yra.org**

DECISION ON APPEAL, # 05-05
MYTOY vs *PROTEST COMMITTEE*
HDA Race, Division M, May 21, 2005
Host: St Francis Yacht Club

September 10, 2005

SUMMARY OF SITUATION:

MYTOY (a Ranger 26) was a participant in a race sponsored by the Handicap Divisions Association (HDA) of the YRA, conducted by the St. Francis YC (StFYC). The race was one of two held on May 21, and one of eleven scheduled for the HDA summer series in 2005. *MY TOY* sails in Division M of HDA, using PHRF handicapping, and for the race in question (race #2) sailed course "G". Course "G" is windward-leeward, twice around, and measured 5.68 miles in length.

Four boats started in Race #2. The wind was estimated at 25 to 30 mph. As *MYTOY* approached the weather mark the second time, she noticed *HIPPO* following her and sailing erratically. *HIPPO* had lost a man overboard, so *MYTOY* turned back to help with the rescue. After *MYTOY* recovered the man overboard for *HIPPO*, *MYTOY* returned to StFYC because one of her crew was injured during the rescue. Both *MYTOY* and *HIPPO* retired from the race. Two other boats finished and were scored one and two.

MYTOY submitted a Request for Redress during the protest filing period, after which *MYTOY*'s skipper went to the hospital to attend to his injured crew. Later that day, the PC held a hearing to consider redress. No one from *MYTOY* attended the hearing, but the PC agreed on redress and awarded average points to *MYTOY* for Race #2 ("points equal to four").

During the four weeks that followed, an exchange of emails took place in which *MYTOY* attempted to convince the Club and the PC that the hearing should be re-opened to consider "significant new evidence." On June 10, the Club advised *MYTOY* that there had been a misunderstanding and that the PC was changing *MYTOY*'s score to "points equal to two." On June 18, *MYTOY* was advised by the Club that the PC felt that appropriate redress had been given and they would not re-open. *MYTOY* then submitted an appeal.

FACTS FOUND BY THE PC:

MYTOY recovered a crew member from another boat and retired to assist with injury to the recovered crew.

CONCLUSIONS OF PC, RULES THAT APPLY, AND DECISION:

MYTOY was unable to finish Race #2 and was in compliance with Rule 1.1. *MYTOY* is given average of scores for the regatta.

BASIS FOR APPEAL BY *MYTOY*:

1. The score computed by the PC was unfair to *MYTOY* because she was clearly winning the race when she had to stop racing to help a person in serious danger (per RRS 1.1).

2. The PC failed to apply the most appropriate “guidance” for redress, namely RRS A10(c).
3. The timing for protest hearings described in the StFYC sailing instructions (referred to as the Stone Cup Sailing Instructions) was vague and inconsistent with the same information provided in the HDA sailing instructions (referred to as the YRA Standing Sailing Instructions).
4. The Club appears unwilling to honor *MYTOY*'s excuse for missing the hearing; namely, that the *MYTOY* crew was at a hospital attending to a teammate that was injured during the rescue.
5. The PC used bad judgment by refusing to re-open the hearing to consider significant new evidence (including the above).

DECISION:

After reading the contents of this appeal, we have concluded that there was significant information that was not known at the time of the original hearing, and it was likely that the only information PC had about this incident was the written information on the protest form. Also, from a procedural standpoint, we believe that *MYTOY* was denied access to the PC to discuss the possibility of “significant new evidence,” as referenced in RRS 66. We acknowledge the option available to the PC per RRS 63.3(b), however because of the seriousness of the incident, the limited information on the protest form, and the fact that the *MYTOY* crew was at a local hospital, we direct the PC to reopen this hearing.

We are concerned about RRS 64.2 and whether PC considered the results of their decision on “the series” as well as the race itself. Did the two races on May 21 constitute a series for which a prize was awarded (e.g., the Stone Cup regatta), or was the HDA Summer Series more important. The PC should determine the relevant facts prior to making this decision.

When the Committee reopens the hearing, it should not be concerned about the availability of all the original members of the PC, as there was never any testimony from *MYTOY* in the first place. We ask that the Committee contact *MYTOY* about an agreeable time for this hearing. If *MYTOY* wants to bring witnesses, that is her prerogative, and it is her responsibility to make the arrangements. If the Committee needs another copy of the material that was gathered by the appellant, we can provide it.

THE APPEALS COMMITTEE OF THE YACHT RACING ASSOCIATION OF SAN FRANCISCO BAY.

Thomas V. Allen, Jr. Chairman

copy: *HIPPO* (Mark Wommack), 1447 Fifth Street, Alameda, CA 94501
MYTOY (David Adams), 77 Crestmont Drive, San Francisco, CA 94131
Appeals Committee Members (via email)