Racing Rules of Sailing

Rule 63.3(a)

A submission from the Malaysian Yachting Association

Purpose or Objective
To amend Rule 63.3(a)

Proposal

63.3 Right to Be Present

(a) The parties to the hearing, or a representative of each, have the right to be present throughout the hearing of all the evidence. When a protest claims a breach of a rule of Part 2, 3 or 4, the representatives of boats shall have been on board at the time of the incident, unless there is good reason for the protest committee to rule otherwise. Any witness, other than a member of the protest committee, shall be excluded except when giving evidence.

Current Position
As above.

Reasons

All modern judicial systems allow a party to be represented as a matter of right. It is unsound practice to remove this right under any circumstances and may lead to successful referrals to a court of law or CAS.

In practice where a sailor is perfectly capable of giving evidence in a part 2 hearing, but chooses to appoint some legal expert, he is unlikely to gain anything. More likely, such an appointment would be detrimental to his chances of winning a case.

On the other hand, a sailor not comfortable with the English language or with understanding the rules may need a representative to fairly put his case, and should not be put in a position that he must satisfy the Committee that there is a ‘good reason’.

The Protest Committee should never be in the position of deciding whether there is ‘a good reason’ to permit the use of a representative (which is the current position).

In Asia we are used to dealing with shy, respectful, often young, sailors who often need a representative but would not feel comfortable having to argue there was a ‘good reason’.