

Racing Rules of Sailing

New Case

A submission from the Chairman of the Racing Rules Committee

Proposal

CASE XXX

Rule 66, Reopening a Hearing

When a party to a hearing asks for a reopening, evidence is ‘new’ if it was not reasonably possible for the party to have discovered it, or to have found the witness who can offer it, before the original hearing. Also, evidence is ‘new’ if it was diligently, but unsuccessfully sought before the original hearing, and evidence may be ‘new’ if it only became material during the original hearing.

Assumed Facts

A party to a hearing asks for a reopening asserting that significant new evidence has become available.

Question

What criteria should the protest committee use to decide whether or not evidence is ‘new’?

Answer

Evidence is ‘new’

- if the party asking for the reopening is the party that delivered the written protest or request for redress, and if before the original hearing it was not reasonably possible for her to have discovered the evidence or found the witness who can offer the evidence;
- if the party asking for the reopening is not the party that delivered the written protest or request for redress, and if, after the protest or redress information was made available to the party and before the original hearing, it was not reasonably possible for her to have discovered the evidence or found the witness who can offer the evidence; or
- if the protest committee knows that before the original hearing it was diligently, but unsuccessfully sought by the party asking for the reopening.

Evidence may be ‘new’ if it relates to issues not raised in the written protest or request that only became material during the original hearing.

Current Position

None

Reason

The case provides a useful interpretation of 'new evidence' as used in rule 66. The question that the proposed case answers is one that is often asked by judges, and currently there is no case that provides an answer.
