

COURT OF APPEALS

JUDGMENT OF THE COURT OF APPEALS

Peter Lehr vs. SOM, COA Ref. No. 09-24-MW

September 11, 2009

FACTS IN BRIEF

Following Race Group 4 at the Fun In The Sun National races at Mid-America Raceway on August 16, 2009, Chief Steward Bob Eddy filed a RFA asking for an investigation of a body contact involving SM cars #12 (Peter Lehr) and #59 (Jarred Igon) at Turn 1. The SOM, Keith Bowman, Scott Bowman, Kenneth Kirkland and Bill Johnson (Chairman) conducted a hearing, interviewed witnesses, examined cars, and reviewed a video. They determined that Mr. Lehr was at fault and placed him on a 3 - race weekend probation. Mr. Lehr is appealing that ruling.

DATES OF THE COURT

The Court of Appeals (COA), Dick Templeton, Dave Nokes and Bob Horansky, Chairman, met on August 27, September 3 and September 10, 2009, to hear, review, and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Letter of appeal and related documents, received by the COA on August 26, 2009.
2. Official Observer's Report and related documents received by the COA on August 28, 2009.
3. Emails from Bob Eddy received August 28 and September 2, 2009.
4. Conversations with Bill Johnson (Chairman SOM) August 21, 26 and 31, 2009.
5. Videos from Mr. Lehr's and Mr. Igon's cars received September 4, 2009.

FINDINGS

In the COA review of Mr. Lehr's video, which was not made available to the First Court, it was apparent that car 12 (Mr. Lehr) attempted to resume the racing line after passing car 59 (Mr. Igon) without clearing car 59. Car 12 impacted car 59 causing both to spin and continue.

Additionally, in Mr. Lehr's appeal he stated that he had not been allowed sufficient time to call witnesses. This was refuted by the Chairman SOM. He stated that Mr. Lehr was advised at post race impound of a pending action and that he should begin looking for witnesses. Mr. Lehr introduced two witnesses, Stuart and Kent Lehr.

DECISION

The majority of the witness statements as well as Mr. Lehr's own video support the decision of the First Court which is upheld by the COA. The COA felt that the images on Mr. Lehr's video show a disregard for his fellow competitors and adds the penalty of disqualification from the event to the probation penalty. The added penalty changes the penalty points assessed from 3 to 4. Mr. Lehr's appeal was deemed not well founded and his appeal fee shall be retained by SCCA.

COURT OF APPEALS

JUDGEMENT OF THE COURT OF APPEALS

Doug Makishima vs. SOM COA 09-25-NP

September 23, 2009

FACTS IN BRIEF

At the San Francisco Region Double Regional held at Infineon Raceway on September 4-6, 2009, Doug Makishima, ITS #10, was protested by Tom Mannell, driver of ITS #40, contending noncompliance. The protest was filed following the first sanction's ITS race and prior to the second sanction's ITS qualifying and race sessions. When the Stewards of the Meeting (SOM), Morris Hamm, Richard Raymond, and Mary Lou Robson, Chairman, attempted to contact Mr. Makishima, it was discovered that he had left the track for the day. On Sunday morning, the SOM informed Mr. Makishima of the protest. Mr. Makishima indicated that he would withdraw and not allow his car to be inspected. The SOM issued Mr. Makishima the GCR mandated penalty of disqualification, 6 month suspension, fine and the associated penalty points. Mr. Makishima is appealing that ruling.

DATES OF THE COURT

The Court of Appeals (COA) JoAnne Jensen and Fred Cummings, COA Alternates, and Bob Horansky, Chairman, met at the SCCA Runoffs on September 23, 2009, to review the decision of the SOM. Regular Court member Dick Templeton recused himself as he was a steward at the event. Court member Dave Nokes was unavailable for the discussions.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Appeal letter and associated attachments from Doug Makishima, received September 23, 2009.
2. Observers Report and related documents received September 23, 2009.
3. Race schedule and Supplementary Regulations received September 23, 2009.
4. Verbal testimony from Mary Lou Robson, Chairman SOM.

FINDINGS

The COA finds that Mr. Makishima entered both races, participated in the single dual race practice session, and when notified of the protest, chose to withdraw from the second race. He was free to withdraw, however, that does not relieve him of the responsibility to submit his car for inspection.

DECISION

The Court of Appeals upholds the SOM in its entirety. Mr. Makishima did not provide any new evidence. His appeal was properly presented and his appeal fee, less the amount retained by SCCA, will be refunded.

COURT OF APPEALS

JUDGEMENT OF THE COURT OF APPEALS

Jaime Slone vs. SOM COA Ref. No. 09-01-RO

September 21, 2009

FACTS IN BRIEF

On September 9, 2009, Jaime Slone (FM) received notification that his entry to the 2009 SCCA National Championship Runoffs had been refused as he had not met the requirements of GCR 3.9.2.A. Mr. Slone protested the matter to the event Chief Steward who appointed a First Court (SOM) of Tom Hoffman, John Peterson and Gary Meeker, Chairman. After reviewing documentation, the First Court upheld the entry refusal. Mr. Slone appealed this action.

DATE OF THE COURT

The Court of Appeals (COA) Dave Nokes, Dick Templeton and Bob Horansky, Chairman, met at the SCCA Runoffs on September 21, 2009 to hear the appeal and review the decision of the SOM.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Appeal letter and related documents received September 21, 2009.
2. First Court report and related documents received September 21, 2009.
3. Runoffs Supplementary Regulations.
4. January 2009 FasTrack.
5. Verbal testimony from Mr. Slone.
6. Witness statement and verbal testimony from Charles Knox, Chief Scrutineer, Cal Club.
7. Witness statement and verbal testimony from Sean Mellick, Mr. Slone's Crew Chief.

FINDINGS

Mr. Slone competed in four National events in 2009, finishing three of them. Mr. Slone stated that he had read the 2009 GCR Section 3.9.2. but not the January 2009 FasTrack or the event Supplementary Regulations, both of which called for a minimum of four finishes, echoing the Board of Directors decision of May 8, 2008.

Mr. Slone's allegations that he had been advised incorrectly by Divisional and National staff could not be verified.

DECISION

The Court of Appeals upholds the decision of the First Court and denies the appeal. Mr. Slone's appeal was properly presented and his appeal fee will be returned.

COURT OF APPEALS

JUDGEMENT OF THE COURT OF APPEALS

Chief Steward vs. SOM, COA Ref. No. 09-02-RO

September 26, 2009

FACTS IN BRIEF

At post-race impound following the American Sedan race, Assistant Chief Steward of Tech Skip Yocum issued a Chief Stewards Action (CSA) disqualifying Philip Smith (AS #54) for violation of GCR 9.1.6.D.1.a.1. (approved carburetor and manifold). The CSA cited observed violation of the "design and configuration" of the intake manifold. Mr. Smith's Edelbrock RPM 7101 manifold had the cross passage heat riser welded shut. Mr. Smith protested the disqualification based on the contention that the passage has no function when the manifold is bolted to the optional Edelbrock head.

The First Court (SOM) John Peterson, R. David Jones, and Tom Brown, Chairman, heard the protest, interviewed Mr. Smith, reviewed the inspection, and upheld the disqualification. Mr. Smith appealed that decision.

DATE OF THE COURT

The Court of Appeals (COA) Dave Nokes, Dick Templeton and Bob Horansky, Chairman, met on September 26, 2009 to review, hear, and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. First Court decision and related documents received September 26, 2009.
2. Appeal from Philip Smith, received September 26, 2009.

FINDINGS

The COA interviewed Tom Brown, Philip Smith, and inspected the subject manifold. Mr. Smith clearly admits that the manifold heat passages are welded shut. It is true that when bolted to the compliant optional Edelbrock head, these passages do not align with any ports, and are in fact blocked. The GCR allows blocking of this passage only at the head (GCR 9.1.6.F). The COA recognizes that the manifold welds accomplish the same effect, but the welds are non-compliant as they alter the manifold design and configuration.

DECISION

The Court of Appeals upholds the First Court but modifies the penalty by moving Mr. Smith to the last place finisher, which carries an automatic penalty of 3 points. The appeal was properly presented and Mr. Smith's appeal fee, less the amount retained by SCCA, will be returned.

COURT OF APPEALS

JUDGEMENT OF THE COURT OF APPEALS

Chief Steward vs. SOM, COA Ref. No. 09-03-RO
September 26, 2009

FACTS IN BRIEF

Brian Wallace, driver of AS #8, protested the Chief Steward's Action (CSA) to disqualify his car per GCR 9.1.6.D.1.1., for non-compliance of the cylinder head due to an unauthorized modification of the valve seat. The First Court (SOM), Bill Medcalf, Julie Komp and Steve Harris, Chairman, conducted an investigation, interviewing Mr. Wallace, several members of the AS Advisory Committee, the Chairman of the Club Racing Board, and several scrutineers. The First Court upheld the protest, returning Mr. Wallace to his original finishing position. The Chief Steward appealed the decision of the First Court.

DATE OF THE COURT

The Court of Appeals (COA) Dave Nokes, Dick Templeton and Bob Horansky, Chairman, met on September 26, 2009, to review, hear, and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Appeal letter and related documents received September 26, 2009.
2. First Court report and related documents received September 26, 2009.
3. Verbal testimony from Paul Diringer, Scrutineer.
4. Verbal testimony from Jim Averett, Chief Steward.
5. Verbal testimony from Brian Wallace, driver AS #8.
6. Verbal testimony from Bob Dowie, Chairman, Club Racing Board.

FINDINGS

The COA found that the First Court had conducted a detailed and comprehensive review of the CSA and protest. The COA also learned that the diagram showing the specifications for machining the valve seat on page 475 of the GCR applies to the cast iron head, rather than the aluminum Edelbrock #608879 cylinder head that is authorized for use. There are no specifications in the GCR for the head geometry of the valve seat area for the optional Edelbrock cylinder head. As a result, the printed specifications shown in the GCR cannot be used to determine compliance of this cylinder head.

DECISION

The Court of Appeals disallows the appeal, upholding the original decision of the First Court. The appeal was properly presented and the appeal fee will be returned.

The Court requests that the Club Racing Board prepare and publish the correct specifications for the head geometry of the valve seat area for the Edelbrock head.

COURT OF APPEALS

JUDGEMENT OF THE COURT OF APPEALS

FACTS IN BRIEF

Chief Steward Jim Averett filed a Request for Action (RFA) with a First Court (SOM) to investigate metal-to-metals between Mike Miserendino, SRF #11, and Brian Schofield, SRF #61, at Corners 5 and 14 on the last lap of the SFR National Championship race.

The First Court, Rick Mitchell, Mike Engelke and Mary Lou Robson, Chairman, heard the protest, interviewed Mr. Miserendino and Mr. Schofield, heard corner worker witnesses, and viewed a video provided by SpeedCastTV. They First Court determined that Mr. Miserendino was at fault and penalized him one position, moving him from first to second. Mr. Miserendino appealed their decision.

DATE OF THE COURT

The Court of Appeals (COA) Dave Nokes, Dick Templeton and Bob Horansky, Chairman, met on September 26, 2009 to review, hear, and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. First Court decision, the video they viewed and related documents received September 26, 2009.
2. Appeal from Mr. Miserendino, received September 26, 2009.
3. In-car video provided by Mr. Miserendino.
4. Testimony from the third place SRF, Richard Spicer, SRF #65.
5. Testimony from spectator and Divisional Steward John Mikkelsen.

FINDINGS

The COA reviewed the testimony considered by the First Court and their decision. It also viewed the SpeedCastTV video and interviewed Mr. Miserendino and Mr. Schofield. Additionally, new evidence was gathered by viewing Mr. Miserendino's in-car video, interviewing Mr. Spicer, and reading Mr. Mikkelsen's witness statement.

There was body-to-body contact on the last lap between SRF #11 and SRF #61 prior to the braking zone of Turn 5 and before and in Turn 14.

After reviewing all of the evidence, the COA determined the contact before Turn 5 and the subsequent pass by SRF#11 of SRF #61 exiting Turn 5 to be unrelated as both cars were fully under control before the Turn 5 braking zone. Both drivers shared responsibility for the contact which was caused by SRF #61 maneuvering to prevent SRF #11 from having racing room to pass and SRF #11 attempting to pass when there was insufficient pavement to properly complete one.

The contact in Turn 14 occurred as SRF #61 attempted to regain the lead. There was side-to-side contact and SRF#61 nose to SRF #11 tail contact. Neither contact caused loss of control or significant damage. SRF #61 initiated both the side-to-side and nose-to-tail contact in Turn 14.

Both contact incidents were the result of two competitors racing aggressively and with considerable skill. There was a shared responsibility for the contacts and neither one directly affected the on-track results. The COA determined they were incidental and did not rise to the level of a penalty for either driver.

DECISION

The Court of Appeals upholds the Appeal of Mr. Miserendino and restores his first place finishing position. The appeal was properly presented and Mr. Miserendino's appeal fee, less the amount retained by SCCA, will be returned.

COURT OF APPEALS

Judgment of the Court Of Appeals
Tom Sloe vs. SOM, COA Re. No. 09-05-RO
September 27, 2009

FACTS IN BRIEF

Following post-race impound at the 2009 Runoffs at Road America, Chief Steward Jim Averett filed a Chief Steward's Action disqualifying Tom Sloe (AS #74) for non-compliance (GCR 9.1.6.F., valve lift). Mr. Sloe protested that action. The First Court (SOM), Anne Christian, Barbara Knox, and Gary Meeker, Chairman, met, reviewed evidence, observed the measurement process, and disallowed Mr. Sloe's protest. Mr. Sloe appealed that decision.

DATE OF THE COURT

The Court of Appeals (COA), David Nokes, Dick Templeton and Bob Horansky, Chair, met on September 27, 2009 to hear, review, and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. First Court findings and related documents received September 27, 2009.
2. Mr. Sloe's appeal and related documents received September 27, 2009.

3. Verbal testimony from American Sedan Scrutineering Line Chief Rick Henschel.
4. Verbal testimony from Technical Inspector Frank Sefranek.
5. Verbal testimony from Technical Chief of Compliance Inspector Frank Diringger.
6. Verbal testimony from SCCA Club Racing Board Chairman Bob Dowie.
7. Verbal testimony from Club Racing Technical Manager John Bauer.
8. Verbal testimony from AS #74 driver Tom Sloe.
9. Verbal testimony from Chief Steward Jim Averett.

FINDINGS

When asked by the COA to use the SCCA-provided dial indicator and associated equipment to measure the valve lift on his car, Mr. Sloe was unable to properly affix the mechanism onto the block using the magnetic base. The Technical Inspector also had difficulty with this as well as with adjusting the indicator to the proper axis (parallel with the valve stem), given the four adjustable extension arms needed to position it over the valve properly. In this case, the valve rocker arm hinders free access to the valve spring retainer. The magnetic base was not in good repair as it had inadequate holding power to properly secure the measurement apparatus. Multiple post-race measurements varied significantly.

The Court observed the following:

1. The greater the length of the extension arms, the greater the spring and unsteadiness of the plunger tip against the valve.
2. It is nearly impossible to visually determine whether the indicator is on the correct axis parallel to the valve, and there is no mechanical means available to make that determination. The complex geometry of the top of valve spring retainer adds difficulty to the measurement and can cause results that are either longer or shorter than the actual valve lift.
3. There is a nearly infinite combination of adjustments to the extension arms, precluding repeatable measurements by the plunger at the same point on the valve.
4. The multiple slopes on the surface of the valve spring retainer where the measurement probe rested, combined with the other three factors, led to the plunger's sliding on the valve spring retainer surface as the valve is opened making duplicate accurate readings unlikely.
5. Repeated measurements made on an improper axis would be repeatedly in error.

As a result, the COA finds that the equipment is inadequate for obtaining accurate repeatable measurements and that the process is biased toward a non-compliant result. The Court appreciates the difficulties in attempting to use general purpose equipment in the field to determine compliance, even by the Runoffs Technical Inspectors, who had considerable experience and skill.

DECISION

The COA upholds Mr. Sloe's appeal. The appeal was properly presented and the appeal fee, less the amount retained by SCCA will be returned.

COURT OF APPEALS

Judgment of the Court Of Appeals
Jim Averett vs. SOM, Ref. No. COA 09-06-RO
September 27, 2009

FACTS IN BRIEF

Following impound for American Sedan at the 2009 SCCA Runoffs, Chief Steward. Jim Averett disqualified car 74, Tom Sloe, for non-compliant carburetor Modifications — GCR 9.1.6.D.1.a.3. Mr. Sloe protested the action.

The First Court (SOM) Bill Medcalf, Julie Komp and Steve Harris, Chairman, met, reviewed evidence and disallowed Mr. Sloe's protest. Mr. Averett appealed that decision.

DATE OF THE COURT

The Court of Appeals (COA), Dave Nokes, Dick Templeton and Bob Horansky, Chairman, met on September 27, 2009 to review, hear, and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. First Court findings and related documents.
2. Mr. Averett's appeal and related documents.
3. Verbal Testimony from American Sedan Scrutineering Line Chief Rick Henschel.
4. Verbal Testimony from SCCA Club Racing Board Chairman Bob Dowie.
5. Physical inspection of Mr. Sloe's carburetor.
6. Verbal Testimony from Scrutineer Frank Diringger.
7. Verbal Testimony from Chief Steward Jim Averett.
8. Verbal Testimony from Mr. Sloe.

FINDINGS

The COA inspected and compared the carburetor butterfly screws in both a stock carburetor and Mr. Sloe's carburetor and noted that Mr. Sloe's had been replaced.

Routine servicing requires cutting or grinding the threaded end of the factory attachment screws in order to remove the butterflies. GCR 9.1.6.D.1.a.3. also allows specific modifications of the butterflies.

The COA finds that GCR 9.1.6.D.1.o. allows the replacement of similar hardware items that perform the same fastening function.

DECISION

The COA upholds Mr. Averett's appeal. The appeal was properly presented and the appeal fee, less the amount retained by SCCA, will be returned.

COURT OF APPEALS

JUDGMENT OF THE COURT OF APPEALS

Jim Averett vs. SOM COA Ref. No. 09-07-RO

September 27, 2009

FACTS IN BRIEF

Following impound for American Sedan at the 2009 SCCA Runoffs, Chief Steward Jim Averett disqualified car 13, Kenneth Lubash, for non-compliant carburetor modifications – GCR 9.1.6.D.1.a.3. Mr. Lubash protested that action.

The First Court (SOM), Bill Medcalf, Julie Komp and Steve Harris, Chairman, met, reviewed evidence and disallowed Mr. Lubash's protest. Mr. Averett appealed that decision.

DATE OF THE COURT

The Court of Appeals (COA), Dave Nokes, Dick Templeton and Bob Horansky, Chairman, met on September 27, 2009 to hear review and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. First Court findings and related documents.
2. Mr. Averett's appeal.
3. Verbal Testimony from American Sedan Scrutineering Line Chief Rick Henschel.
4. Verbal Testimony from SCCA Club Racing Board Chairman Bob Dowie.
5. Verbal Testimony from Scrutineer Frank Durringer.
6. Verbal Testimony from Chief Steward Jim Averett.
7. Verbal Testimony from American Sedan competitor Tom Sloe.
8. Physical inspection of carburetor ruled non-compliant.

FINDINGS OF THE COURT

The COA inspected and compared the carburetor butterfly screws in both a stock carburetor and a carburetor deemed non-compliant and noted that the non-compliant carburetor's butterfly screws had been replaced.

Routine servicing requires cutting or grinding the threaded end of the factory attachment screws in order to remove the butterflies. GCR 9.1.6.D.1.a. also allows specific modification to the butterflies.

The COA finds that GCR 9.1.6.D.1.o. allows the replacement of similar hardware items that perform the same fastening function.

DECISION

The COA upholds Mr. Averett's appeal. The appeal was properly presented and the appeal fee, less the amount retained by SCCA, will be returned.

COURT OF APPEALS

JUDGMENT OF THE COURT OF APPEALS

Jim Averett vs. SOM COA Ref. No. 09-08-RO

September 27, 2009

FACTS IN BRIEF

Following impound for American Sedan at the 2009 SCCA Runoffs, Chief Steward Jim Averett disqualified car 24, Andrew McDermid, for non-compliant carburetor modifications – GCR 9.1.6.D.1.a.3. Mr. McDermid protested that action.

The First Court (SOM), Bill Medcalf, Julie Komp and Steve Harris, Chairman, met, reviewed evidence and disallowed Mr. McDermid's

protest. Mr. Averett appealed that decision.

DATE OF THE COURT

The Court of Appeals (COA), Dave Nokes, Dick Templeton, and Bob Horansky, Chairman, met on September 27, 2009 to hear, review and render a decision on the appeal.

DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. First Court findings and related documents.
2. Mr. Averett's appeal and related documents.
3. Verbal testimony from American Sedan Scrutineering Line Chief Rick Henschel.
4. Verbal testimony from SCCA Club Racing Board Chairman Bob Dowie.
5. Verbal testimony from Scrutineer Tom Dirringer.
6. Verbal testimony from Chief Steward Jim Averett.
7. Verbal testimony from American Sedan competitor Tom Sloe.
8. Physical inspection of carburetor ruled non-compliant.

FINDINGS OF THE COURT

Mr. McDermid's car had several mechanical issues during the course of the impound procedures which were not brought to the attention of the COA. The COA was limited to a review of GCR 9.1.6.1.D.a.3. as no other GCR Section was appealed.

The COA inspected the butterfly screws in a stock carburetor and compared them with those in carburetor deemed non-compliant and noted that the butterfly screws had been replaced on the alleged non-compliant carburetor.

Routine servicing requires cutting or grinding the thread end of the factory attachment screws in order to remove the butterflies. GCR 9.1.6.D.1.a.3. also allows specific modifications of the butterflies.

The COA finds that GCR 9.1.6.D.1.o. allows the replacement of similar hardware items that perform the same fastening function.

DECISION

The COA upholds Mr. Averett's appeal. The appeal was properly presented and the appeal fee, less the amount retained by SCCA, will be returned.