

51209 3 2 1 When the owners of yachts agree to enter a sailing regatta, the sailing instructions often provide that races will be conducted according to yacht racing rules. Under these circumstances, if racing vessels collide during a yacht race, are the respective rights and responsibilities of the racing vessels determined by the agreed yacht racing rules or by the Convention on the International Regulation for the Prevention of Collisions at Sea, commonly known as the COLREGS or the Rules of the Road?

On October 3, 1992 the 72' sloop CHARLES JOURDAN was racing in the La Nioularge Regatta off Southern France. Also competing in this regatta on a different course was the 120' restored J Class sloop ENDEAVOR. Both race courses converged at Mark A . . . unfortunately, both vessels also converged and collided at Mark A. Pursuant to the International Yacht Racing Rules, the CHARLES JOURDAN filed a protest against ENDEAVOR. An international jury was convened and a hearing conducted. ENDEAVOR was disqualified from the race and CHARLES JOURDAN was granted redress in points equal to the place she had at the time of the incident.

The owners of the CHARLES JOURDAN caught up with the ENDEAVOR in September 1993 in Maine. They filed suit seeking money damages against the ENDEAVOR in rem in the U.S. District Court and had the ENDEAVOR arrested. They claimed damages to the CHARLES JOURDAN, loss of business and loss of sponsors. Owners of the ENDEAVOR counterclaimed for damages for loss of business, and for alleged false arrest of the ENDEAVOR.

The District Court found the COLREGS controlling over the International Yacht Racing Rules and ignored the findings of the

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International Jury. The Court found both vessels at fault and apportioned damages between the vessels.

On June 9, 1995, the First Circuit Court of Appeals, reversed the District Court finding that the contestants, as among themselves, had waived application of the COLREGS and had agreed to sail according to the International Yacht Racing Rules. The International Jury had found ENDEAVOR 100% at fault, and the First Circuit upheld this determination and awarded damages accordingly. In footnote 10 the Court observed, "As to third parties, of course, the COLREGS fully regulate normal maritime traffic vis-a-vis private races."

More next week on The Admiralty Docket. Until then, remember your rights and responsibilities may change as you approach the shore and may God Almighty grant you pleasant sailing. 51209

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