

Mr. Joe O'Reilly,

As you suggested I formally request an appeal and vote regarding the Founders Trophy issue and Cat Attack. Please feel free to forward this to the other board members.

You stated two reasons why Orca pulled the Founders Trophy away from Cat Attack ...

- 1) I was not onboard Cat Attack in some races during the series.
- 2) You said that the Owner of the boat has to be on the boat because the Owner and boat are tied into the Orca floating rating system.

I respectfully disagree on all counts. In my research of your claims I cannot find anywhere in the Orca by-laws that state that the owner of the boat must be on the boat while racing or that the owner is tied into the Orca floating rating system. Please read below my rebuttal to your claim...

**1) Regarding Owner on the Boat:** Under the old and new By-laws it should clearly state that in a race or series the boat owner must be on board at all times. It does not. With other organizations such as LBYC, NOSA, PHRF they do not require the boat owner, same skipper, crew, or helmsman to be on the boat in a race or series. In particular, the races in question are part of the Catalina Island Series run by LBYC. LBYC does not require the boat owner to stay with the boat. In a series it is recognized by all these organizations that it is the boat, NOT the Owner or crew, that need to participate in a series. A skipper cannot go from boat to boat and race different boats to earn points for a series. It is the boat that earns the points not the boat owner or crew. And if the Orca Board disagrees with the precedence that other organizations have made concerning how you score a series, please consider two contradictions in the Orca By-laws....

**a)** Under # 6.14 "Crew Requirements", it does not state that the Owner must be on the boat to race. It only states the minimum number of crew. If the Owner has to be onboard to be legal then it should state it as a crew requirement. It does not.

More importantly it states "Boats may occasionally sail with one less than their rated number of crew, but not less than their minimum number of crew". This reference allows one member to be missing from her regular crew. **This is what Cat Attack did.** The by-law does not exclude the owner, skipper or helmsman to be that one less crewmember. If the Owner is tied to the boat to be legal to race then this section should state it clearly that the owner is excluded from this section. It does not. The current language in 6.14 allows that the Owner or any other critical crew pertaining to the boats performance does not have to be on the boat at all times to be legal to race or affect the boats rating.

**b)** Under # 5.6, which talks about safety while racing, states, "the safety of a vessel and her crew is the sole responsibility of the owner, or owners representative". Although 5.6 talks about safety it assumes you are a racing boat with a rating. Why would Orca be concerned about the safety of a boat if it were not an Orca rated boat with a rating? With this in mind, please note the term "owners representative" in 5.6. Why is the term "owners representative" used if the owner has to be on the boat at all times? There would be no use for the term "owners representative" unless the boat Owner was not present. The current language in 5.6 allows the Boat owner NOT to be present and that the owner's representative will be responsible for the boats safety while racing.

**2) Regarding Owner and Rating:** You claim you have a rating system that rates the Owner and the boat. Actually you do not. It is clearly stated under 9.0 Handicapping and Configuration Control that the boat and the "Boats Actual Performance" from race to race create the rating, NOT the SAME owner, skipper, helmsman or crew. The By-Laws only use the term "BOATS" or BOATS ACTUAL PERFORMANCE or FUNCTION of PERFORMANCE when a rating can change up or down based on the performance of the boat. Nowhere in this section does it state or assume that the Owner has to be on the boat affecting the boats rating. The only reference of the term "Owner" in section 9.2. is to ensure that the listed configurations of the boat are the same or the Owner must notify the Secretary of any changes to the boat such as sail area, weight or any other.

As long as you are not breaking the MIR rule (which was NOT in effect last year) you can have different helmsmen or crew under the current rule. If Orca was rating the boat

AND owner then the By - Laws need to state it. It does not. However, let's say Orca was trying to tie the owner to the rating and that the owner needs to be on the boat at all times...how does this affect the performance of the boat??? The crew, not the owner, can better a boats performance on the race course...you win or lose with the skill of the crew. Does this mean we have to have the same crew onboard the boat at all times so the boat will keep the same rating??? When I mentioned it on the phone you said that would be ridiculous and complicated...I agree, that is why the Orca by-laws state "the Boat" or Boats Performance or Function of Performance and does not regulate who is onboard the boat or who is at the helm except for the new MIR and minimum crew rule. Even in # 9.1 it never refers to the owner or crew...only the term "crew skills". And "Crew skills" cannot be perceived as a person.

a) Under # 9.1 its states "a measurement rule gives way to a Performance Handicap where in all effects including "crew skill" and long term tactics they employ are taken into account". This is the only reference I can find that ties the "crew skill" to the boats performance. **But "Crew skill" does not mean Boat Owner. Cat Attack had the same or less crew skill in the races that are being questioned.** If the rating is tied to the crew then you have to have the same crew every time you race or your rating would change. Of course, this is not plausible in the real world. And if the term "crew skill" is used and perceived to mean same crew for every race then everyone in Orca is in violation of this rule. But again, the term "crew skill" cannot be perceived as a person. That is why the by-laws state "boat, boats performance or Function of performance", NOT boat owner, helmsman or any other term to describe any one position on the boat. The current language in 9.1 allows that the Owner or any other critical crew pertaining to the boats performance does not have to be on the boat at all times to be legal to race.

b) Under # 9.2.1 Controlled Parameters, if the Owner was tied into the rating then it should be stated in this section of the by-laws clearly and distinctly...but it is not. This section is applicable to the measurable boat parameters INCLUDING crew. It states that the number of crew is part of the controlled parameters of the boat. It states only that the boat has to abide by the minimum number of crew. If the crew is a measurable controlled Parameter

of the Orca Handicap rating system and that the crew is tied to the rating then it should be stated clearly in this section that the Owner must be on the boat at all times. It does not. The current language in 9.2.1 allows that the Owner or any other critical crew pertaining to the boats performance does not have to be on the boat at all times to be legal to race.

c) I also refer back to 5.6 on this issue as well. To race you have to have a rating. You cannot race without a rating. To keep the boat safe in a race 5.6 allows an "owners representative" to sail and race the boat without any mention of effecting the rating of the boat. So I reiterate...5.6 allows me to have a representative on the boat to sail, race and keep safe my boat and that the rating is NOT tied to the helmsman, crew or Owner.

**3) Corinthian Sailing –** Most importantly, from a purely Corinthian standpoint, I did not harm the fleet by not being onboard Cat Attack. If I had a MIR (again, the MIR rule was not in effect) I might agree with the board if the skipper I put on my boat was a better sailor and could sail Cat Attack faster than myself. But I did not put a MIR onboard Cat Attack (again, it was legal to do so at the time). However, with me off Cat Attack her final results became less competitive as I beat her with my other boat. And there is no rule in Orca that says a member cannot own more than one boat. With me NOT on the boat the fleet gained points against Cat Attack allowing the fleet to have a better chance of winning the Founder Trophy points.

**4) Summary** - In summary on the Founders Trophy issue, if it was clear and if I had known before the first Founders race in 2005 that the owner had to follow the boat then I would abide by the rule. But there is no rule. LBYC does not require it and the races in question are governed by LBYC. Also, where is the notice of race and racing instructions for the Founders Trophy? Because there are no rules written for the Founders Trophy then the burden of proof should be on Orca and not me if there is confusion in the rules. And if there were new rules written they should NOT be retro'd back to Feb 2005... that would be grossly unfair. But most importantly, from a Corinthian standpoint, if I had been on Cat Attack the results of the series would not have changed except that Cat Attack would have done better on points and Cat Attack would have won the Founders Trophy by a wider margin.

So I contend that the Board of Orca is interpreting the By - Laws incorrectly when it comes to these two points. Please read the above-mentioned by-laws again. For ratings they say boat or boats performance or function of performance, they never tie it to the Owner. Under crew requirements they do not state the minimum crew has to be the Owner or other. Under crew requirements it allows one less crewmember NOT be on the boat without affecting the boats rating as long as the boat meets the minimum number of crew. Why does the Orca board assume that the owner won't charter the boat, be sick or not be present and that the crew cannot handle the boat without the owner? No other organization assumes that the owner has to be on the boat at ALL TIMES...PHRF does not, LBYC does not, NOSA does not. The Boards decision to pull the Founders Trophy away from Cat Attack and her crew is not Corinthian, fair or substantiated by the Orcas By-laws.

The board can do whatever they want. However they do have to follow the Orca By-laws. So I reiterate to the members of the board, show me in the by-laws that state that the OWNER has to be onboard at all times to participate in a race or to be onboard to get an Orca rating. Please show me in the by-laws that the OWNER is tied directly to the rating of the boat. And from a Corinthian standpoint please show me how I harmed the fleet and affected the outcome to better Cat Attacks position. Please show me the rule that Cat Attack violated to be disqualified from winning the Founders Trophy that she justly earned.

I put in a lot of time, money and effort to participate in Orca events. The current rules do not state you need to have the same owner, skipper, crew or helmsman on the boat through the series. Cat Attack played by all the rules and regulations of the Orca by-laws and the hosting yacht club during the races in questioned. The win should not be taken away from Cat Attack and her crew.

Regards,  
Randy Reynolds

