

## COURT OF APPEALS

### JUDGEMENT OF THE COURT OF APPEALS Marc Cefalo vs. SOM COA Ref. No. 21-04-SE May 28, 2021

#### FACTS IN BRIEF

Following the Sunday, April 11, 2021, Group 2 race of the Hoosier Racing Tire Super Tour Spring Sprints at Virginia International Raceway, Race Director (RD) Doug Nickel filed a Request For Action (RFA) seeking investigation of contact between Spec Miata (SM) #149, driven by Peter Ensor, and SM #04, driven by Marc Cefalo, and a determination whether a violation of General Competition Rules (GCR) 6.11.1. (On Course Driver Conduct) occurred.

The Stewards of the Meeting (SOM) George DeLong, Jr., Bob Gardner, and Scott Malbon (Chairman) met to hear and rule on the RFA. The SOM interviewed both drivers and reviewed the race log, the written Driver Letter, and available video. The SOM determined the contact causing SM #04 to spin and impact the tire wall was unavoidable and took no further action.

Mr. Cefalo appealed the decision.

#### DATE OF THE COURT

The SCCA Court of Appeals (COA) Jack Kish, Pat McCammon, and Laurie Sheppard (Chairman) met on May 20, 2021, to review, hear, and render a decision on the appeal.

#### DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. SCCA Court of Appeals Request Confirmation, received April 14, 2021.
2. Appeal letter from Marc Cefalo, received May 14, 2021.
3. Official Observer's Report and related documents, received May 14, 2021.
4. Video from SM #04 (front-facing), SM #04 (rear-facing), and SM #149 (front-facing) reviewed by the SOM, received May 14, 2021.
5. Additional video link provided by Mr. Cefalo from SM #13, received May 14, 2021.
6. Photo provided by Mr. Cefalo, received May 14, 2021.

#### FINDINGS

Mr. Cefalo provided an additional in-car video from a trailing car (SM #13) as new evidence to support his appeal. He asserts Mr. Ensor did not control his car and made contact with the rear of SM #04 several times, thus violating GCR 6.11.1.A. (Avoid contact).

The COA reviewed all available video, a photo of damage to the right side of SM #04, and documentary evidence included with the Observer's Report. The race log shows the race began at 9:50 am and after a multicar incident, went full course yellow at 9:56 am. The incident between SM #04 and SM #149 occurred shortly after the race restarted following a lengthy caution period. The large field was tightly compressed through the first few turns. Mr. Cefalo was on the right side of the track approaching right-hand Turn 6 with another SM to his immediate left. The proximity of the car to his left forced Mr. Cefalo to keep a tight inside line and reduce his speed. Mr. Ensor was following closely behind and more than once made light contact with Mr. Cefalo's rear bumper. When Mr. Cefalo touched his brakes at the apex of the turn, Mr. Ensor was unable to react quickly enough to avoid contact. The contact caused SM #04 to spin off course to driver's right and heavily impact the tire wall.

After viewing all video evidence, the COA determined multiple factors contributed to this incident, including the tightly crowded field, the long caution period, the car to Mr. Cefalo's left compressing his racing room, Mr. Cefalo touching his brakes in an atypical location, and the contact by Mr. Ensor. However, the COA is unable to assign sole responsibility to any one factor or driver. The court does not find compelling evidence that the SOM reached an incorrect conclusion. All drivers are equally responsible for avoiding contact and providing racing room to fellow competitors under close racing conditions.

## **DECISION**

The COA upholds the SOM decision in its entirety. Mr. Cefalo's appeal is well founded, and his appeal fee, less the administrative portion retained by SCCA, will be returned.

## COURT OF APPEALS

### JUDGEMENT OF THE COURT OF APPEALS Brian T. Haupt vs. SOM COA Ref. No. 21-05-MW May 28, 2021

#### FACTS IN BRIEF

After the Hoosier Super Tour Group 5 race at Hallett Motor Racing Circuit on Sunday, April 18, 2021, Assistant Chief Steward (ACS) Gerald Wannarka submitted a Request for Action (RFA) to the Stewards of the Meeting (SOM), requesting they investigate an incident in which Grand Touring 3 (GT3) #15, driven by Brian Haupt, lost control, sliding off the racing surface and into the Turn1 flag station barrier.

The Stewards of the Meeting (SOM) Orval Brown, Tom Brown, and Art Tapley (Chairman) met to investigate the RFA. The SOM interviewed Mr. Haupt and heard or reviewed other witness statements. The SOM determined Mr. Haupt failed to regain control of the vehicle, endangering competitors and corner workers. They considered his driving to be reckless and dangerous in violation of GCR 2.1.4. (Driving Recklessly or Dangerously) and suspended his Competition License for three (3) months with six (6) points against his license.

Mr. Haupt appealed the decision.

#### DATES OF THE COURT

The Court of Appeals (COA) Costa Dunias, Pat McCammon and Jack Kish (Chairman) met on May 13, 2021 to review, hear, and render a decision.

#### DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Appeal letter from Brian T. Haupt, received April 23, 2021.
2. Email from Safety Steward, Bob Herman, received May 5, 2021.
3. Official Observer's Report and related documents, received May 5, 2021.
4. Photos from Safety Steward Bob Herman, received May 5, 2021.
5. Photos from Mr. Haupt, received May 5, 2021.

#### FINDINGS

In his appeal, Mr. Haupt referenced photos taken by the Safety Steward of a damaged right front suspension component, which he stated may have failed and caused the initial loss of control. On the straight, before the Start stand, GT3 #15 dropped two right wheels off track. During his interview with the SOM, Mr. Haupt stated he did not brake and continued to accelerate until his impact with the barrier shielding the flag station for Turn 1. He attempted to regain control only by steering. He stated he thought there was

no problem with either the brakes or steering. The SOM noted Mr. Haupt did not have a forward-facing camera as required for all Hoosier Super Tour events (GCR 9.3.11.A. Camera & Camera Mounts).

The COA reviewed the documentation provided by the SOM, including witness statements and the SOM's deliberation report. While attempting to gain control, Mr. Haupt's car went four wheels off in the grass. As his car came back onto the paving it veered left, crossed the racing surface, and impacted the barrier shielding the flag station for Turn 1. Due to the significant damage to the right front of GT3 #15 after impacting the barrier, the COA could not determine whether the right front suspension component failed prior to the car leaving the racing surface or was damaged by the contact with the barrier.

While not intentional, Mr. Haupt's failure to control his car created a dangerous situation when he crossed the track in traffic and impacted the barrier protecting flag and communications workers. The COA finds Mr. Haupt in violation of GCR 2.1.4. (Reckless or Dangerous Driving.)

### **DECISION**

The COA modifies the penalty from Suspension to Probation for the original period of three (3) months. Mr. Haupt must report to the Chief Steward or Race Director at each race he enters, and his actions will be observed and evaluated. The COA also reduces the points on Mr. Haupt's Competition License from six (6) to three (3). Mr. Haupt's appeal is well founded and his appeal fee, less the administrative portion retained by the SCCA, will be returned.

## COURT OF APPEALS

### JUDGEMENT OF THE COURT OF APPEALS Dennis Marklein vs. SOM COA Ref. No. 21-06-CN June 4, 2021

#### FACTS IN BRIEF

Following the Sunday, May 2, 2021, Group 3 race of the Mark Amenda Memorial Majors at Blackhawk Farms Raceway, Assistant Chief Steward (ACS) Ann Hefty filed a Request For Action (RFA) seeking investigation of contact between Formula Enterprises 2 (FE2) #22, driven by Dennis Marklein, and FE2 #35, driven by John Witherspoon, and a determination whether a violation of General Competition Rules (GCR) 6.11.1.A. through D. (On Course Driver Conduct) occurred.

The Stewards of the Meeting (SOM) David Karling, John Maurus, and John Hertsgaard (Chairman) met to hear and rule on the RFA. The SOM interviewed both drivers, heard or reviewed other witness statements, and reviewed all available video. The SOM determined Mr. Marklein violated GCR 6.11.1.A. (Avoid contact) and 6.11.1.C. (One safe protective move) and assessed a penalty of Reprimand and one penalty point on Mr. Marklein's competition license.

Mr. Marklein appealed the decision.

#### DATE OF THE COURT

The SCCA Court of Appeals (COA) Tom Campbell, Costa Dunias, and Laurie Sheppard (Chairman) met on May 27, 2021, to review, hear, and render a decision on the appeal.

#### DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. SCCA Court of Appeals Request Confirmation, received May 10, 2021.
2. Appeal letter from Dennis Marklein, received May 21, 2021.
3. Official Observer's Report and related documents, received May 21, 2021.
4. Video from FE2 #22, FE2 #35, and FE2 #15 reviewed by the SOM, received May 21, 2021.
5. Photos and analysis provided by Mr. Marklein, received May 21 and 22, 2021.

#### FINDINGS

Mr. Marklein provided several photos of the damage to his car, and in his appeal letter, asserted he was on the inside of the turn, ahead of Mr. Witherspoon, when he was hit in the left rear tire and wing. He further stated, "I finished my braking and was ready to turn-in. I was 3/4 past the car on my left, my cockpit forward of his cockpit."

The COA reviewed and analyzed all available video evidence and witness statements. Nearing the end of lap one, Mr. Marklein passed FE2 #15, driven by Alex Conger, whose video provided a view of Mr. Witherspoon and Mr. Marklein entering Turn 1. Mr. Marklein's in-car video malfunctioned and did not capture the critical moments leading up to the contact. Mr. Witherspoon was on the extreme left side of the track approaching Turn 1 at the start of lap two. Mr. Marklein was traveling at a greater speed and closing rapidly as Mr. Witherspoon reached his turn in point. Mr. Witherspoon began to turn toward the apex before Mr. Marklein initiated his pass. As Mr. Marklein drew fully alongside, Mr. Witherspoon attempted to provide racing room, but Mr. Marklein had not yet begun to turn to the apex, and Mr. Witherspoon's right front wheel intersected with Mr. Marklein's left rear wheel.

The COA finds Mr. Marklein is responsible for the incident but disagrees with the GCR sections cited by the SOM. The COA finds Mr. Marklein violated GCR 6.11.1.D. (Passing responsibilities) which states, "The overtaking driver is responsible for the decision to pass another car and to accomplish it safely." By initiating his pass after Mr. Witherspoon had already turned toward the apex, Mr. Marklein was also responsible for the contact, in violation of 6.11.1.A. (Avoid Contact.) The court does not find Mr. Marklein, as the overtaking car, violated 6.11.1.C. (One safe protective move.) The penalty assessed by the SOM was within the authorities granted in GCR 7.2. and will not be modified.

## **DECISION**

The COA upholds the SOM decision with the modification of the violation references. Mr. Marklein's appeal is well founded, and his appeal fee, less the administrative portion retained by SCCA, will be returned.