

## COURT OF APPEALS

### JUDGEMENT OF THE COURT OF APPEALS Edward Zemeck vs. SOM COA Ref. No. 21-09-NE October 14, 2021

#### FACTS IN BRIEF

Following the Saturday, September 11, 2021, Group 6 Qualifying Session of the Pig Roast Regional at Palmer Motorsports Park, Dan Sheppard, driver of Improved Touring 7 (IT7) #77, filed a Protest against Edward Zemeck, driver of Spec Miata 2 (SM2) #38, for alleged violations of General Competition Rules (GCR) 6.11.1.A., B., C., and D. (Driver Conduct)

The Stewards of the Meeting (SOM) Paul Capel, Peter Morrison, and James Shoemaker (Chairman) met to hear and rule on the Protest. The SOM found Mr. Zemeck violated GCR 6.11.1.A., B., C., and D. and issued a reprimand, which also incurred one penalty point on his competition license. Mr. Zemeck is appealing the ruling of the SOM.

#### DATES OF THE COURT

The SCCA Court of Appeals (COA) Costa Dunias, James Foyle, and Jack Kish (Chairman) met on October 14, 2021, to review, hear, and render a decision on the appeal. Laurie Sheppard was recused from this hearing.

#### DOCUMENTS AND OTHER EVIDENCE RECEIVED AND REVIEWED

1. Appeal letter from Edward Zemeck, received September 13, 2021.
2. Official Observer's Report and related documents, received October 8, 2021.
3. Video from Car #38, received October 8, 2021.
4. Witness Statement and Diagram of Incident from Michael LeRoux, received October 8, 2021.
5. Statement, photo of damage to Car #77, and video from Car #38, received October 11, 2021.

#### FINDINGS

The SOM found Mr. Zemeck was responsible for the contact between his car and IT7 #77 based on visual inspection of both cars. With his appeal, Mr. Zemeck submitted an in-car video that was not available to the SOM during the hearing. Mr. Zemeck also submitted a witness statement from Mr. LeRoux (a following car). The COA reviewed all available evidence, including the front and rear facing video from Car #38 submitted by Dan Sheppard and his explanation of the incident.

The rear-facing video from Car #38 bears out in detail Mr. LeRoux's description of the incident in his witness statement. Car #38 was ahead and moving off pace driver's left entering the braking zone for right hand Turn 4. Car #3 and Car #77 were closing rapidly, Car #77 trailing in line. Car #3 passed Car #38 to the right and Car #38 began his turn to the right leaving racing room to his driver's right. At the same time Car #77 began his pass between Car #3 and Car #38. Car #77 was unable to complete the pass through the closing gap. The right front of Car #38 made contact with Car #77's left rear causing Car #38 to go off track and impact the tire barrier on driver's left.

The COA finds the video and witness statement from Mr. LeRoux do not support the SOM decision and Mr. Zemeck is not in violation of GCR 6.11.1.A., B., C., and D.

### **DECISION**

The COA overturns the SOM decision in its entirety. The reprimand and point assessed on Mr. Zemeck's competition license will be removed. His appeal is well founded and his appeal fee, less the administrative portion retained by the SCCA, will be returned.