

A Driver's Guide to Protests

Introduction

Filing a protest is seldom a happy chore. However, it is often the best or only way to right a wrong.

The protest process is not complex, but it does have some hard deadlines. It is a good idea to come to the track armed with a bit of information.

Here is a short explanation of how the process works and how you can best use it.

Alternatives to a Protest

The GCR provides a formal process (protests and appeals) for resolving disputes. You can also try an informal approach before protesting. Talk with the other driver. You may be able to resolve the problem amicably.

Remember that the GCR sets strict time limits for filing protests. You may do better to file a protest before holding a long conversation. You can withdraw the protest if you are able to settle things.

Who May Protest?

Any participant may file a protest. Only entrants or drivers may file a mechanical protest. You can protest "...any decision, act or omission of another entrant, driver, crew, organizer, official, or any other person connected with that event" for a breach of the rules.

The rules (GCR or supps) may exempt certain acts from protest (e.g., sound readings or failure to display a "1" sign signaling the last lap of a race).

The Chief Steward (CS) may also file a Request for Action (RFA). This requests the SOM to investigate an incident. The SOM treats an RFA in the same manner as a protest.

Filing a Protest

Complete and sign an SCCA Protest form. The form is available from the CS or Chairman of the SOM (CSOM), or online at scca.com. You must cite relevant provisions of the GCR and/or supps. There is no group protest. However, several drivers may file protests for the same incident.

You must provide evidence such as a witness list and/or witness statements, in-car video, etc. These do not have to accompany the protest. You can bring them to the hearing. The critical thing is to file within the time limit.

Some events have a Driver Advisor. This person (usually a steward) can explain the forms and process. He may not help you with the specifics of your protest (i.e. identifying what you want to protest, or drafting the body of the protest). Absent a Driver Advisor, the CS can answer your questions.

Members of the SOM may not advise you on filing your protest, nor advise you about the rules, since they may judge the incident that prompted the question.

Deliver the protest and applicable fee (\$25 for Regionals and Schools, \$50 for Nationals) to the CS, who will forward it to the SOM.

There are time limits in which to file your protest:

- You must file mechanical protests no later than one hour before the race or within 30 minutes for cars in impound.
- You must file other protests (driver-to-driver protests, protests against an official's action, and protests against results) within 30 minutes of the relevant action.
- The SOM may extend these limits in exceptional cases, where evidence was not available within the time limit or the protestor was unable to meet the deadline due to unavoidable circumstances.

The CS may not refuse your protest. He must transmit it to the SOM. The SOM may uphold it or not, and/or may decide to extend the time limits for filing or not.

A steward may tell you that he is taking care of the issue, and you do not need to protest. This certainly saves you the bother of protesting. However, if you are not satisfied with the steward's action (or inaction), you have no recourse. Only by filing your protest do you become a party with rights, including appeal.

My practice is to file my protest and withdraw it if the steward takes a satisfactory action.

The process for mechanical protests is similar but involves more steps.

The Protest Hearing

When the SOM receive a protest or an RFA, they notify all the parties and schedule a hearing.

The SOM will not make a judgment without holding a hearing, and listening to the parties and witnesses. Only those members of the SOM who have heard the entire protest may judge it. SOM members with significant personal or business ties to any of the parties will excuse themselves. The hearing process is as follows:

- Both parties may call witnesses. The SOM interviews them individually and in private.
- All parties, once notified, must remain at the track until released by the SOM. In the absence of a party, the SOM may issue a judgment by default. As a practical matter, the SOM will not do this

unless a party deliberately avoids a hearing. The court can continue the case, and holding hearings later by conference call.

- The SOM will ask you and your witnesses to complete and sign witness statements, confirming your testimony.
- Video may help your case. If you have a laptop with a larger screen than your camera, bring it along. It makes viewing easier. The court will retain videos, etc. entered in evidence until the time for appeal has lapsed. SCCA will return your video.
- The SOM will deliver their judgment as soon as possible after the hearing. You must obey this judgment, but have the right of appeal. The CSOM can explain the appeal process for you.
- If you are assessed a penalty, the SOM will give you a formal notification.
- If your penalty includes probation, the SOM will retain your license, and give you a probation letter detailing the provisions of your probation. During your probation, this serves as your license.
- If your penalty includes suspension, the SOM will retain your license. SCCA will return it at the end of the suspension.

Mechanical Protests

Mechanical protests can be a mystery. The process appears complicated and costly, so folks shy away from them. In fact, the process is straightforward and often does not require any expense.

Mechanical protests are not related to post-race impound. If Tech finds a car out of compliance, the Chief of Tech makes a report to the CS, who deals with the infraction.

The CS may order a teardown of a car. This process is very similar to a mechanical protest, with the CS being the “protestor” and the organizing region responsible for any costs incurred by the CS.

Filing a Mechanical Protest

You must file a mechanical protest no later than one hour before the start of the race, or within 30 minutes for cars in impound. The SOM may extend this limit if the protestor can show that the issue arose after the normal protest period (e.g. a car comes to the race grid in a new configuration).

Complete the standard protest form. You may protest any component defined in the rules. Cite specific sections of the GCR. You cannot simply write “illegal engine”. You must protest specific components, citing the relevant rules.

Submit the protest, with the protest fee, to the CS, who transmits it to the SOM.

When the SOM accept your protest, they notify all the parties. The SOM collect the logbook of the protested car, and assign an official to observe it. This preserves the integrity of the protested car.

Setting the Bond

The SOM meet with the protestor, the protestee, and the scrutineers to clarify any questions about your protest, and to determine the factors necessary to set a bond. The bond will be sufficient to cover the costs of disassembly, inspection, and reassembly, and will include consumables, transportation charges, and shop labor. Some inspections (e.g. verifying the final drive ratio) may require no bond at all.

The SOM may group the teardown tasks, and execute them in a logical order, with the protestor allowed to decide whether to proceed after each step.

The protestor must post bond by cash, check, or credit card. The protestee may be required to post a bond or sign a repair order if a third party does some or all of the teardown/inspection. The bond for this work will be the same as the protestor's bond.

If the car proves compliant, the protestor forfeits the bond. If the car is non-compliant, SCCA will return the bond to the protestor, and the protestee must stand the expenses.

Inspection

The SOM establish a secure area for inspection. Only the SOM, scrutineers, and the protestee may enter. The protestor may not observe.

Refusal to allow inspection of a protested car will attract an automatic penalty (disqualification, 6-month suspension, and \$250 fine).

If any protested part is non-compliant, the Chairman will inform the protestee and ask for an explanation. Tech may repeat measurements for the protestee to observe. (If the inspection reveals non-compliant parts outside the scope of the protest, the protest is not affected. The CS deals with them as if found in post-race inspection.)

If the inspection finds a non-compliant part, the protestor has the option to stop the teardown at that point.

Resolution

After the teardown, the protestor and protestee may make additional statements or provide other witnesses or evidence. Then the SOM conduct a normal protest hearing.

If the protest specified multiple items, just one non-compliant item will cause the SOM to uphold the protest. If the SOM uphold the protest, the protestee receives a written notice, detailing the penalty imposed. As with any protest, all named parties have the right of appeal.

If the inspection revealed non-compliant parts, the Chairman will direct Tech to note the infraction in the vehicle logbook, and to inspect those parts at the car's next event. The SOM retains non-compliant parts, pending appeal.

SCCA holds the protest bond until the end of the appeal period or until any appeal is decided. As noted, all named parties have the right of appeal. The appeal process is the same in all cases.

A mechanical protest follows the same process as an ordinary protest, with some added steps dealing with cars and parts. The basic principle is the same: to provide a fair and impartial means of resolving disputes, with due process and right of appeal.

Some Tactical Advice

An SOM hearing is not like something you see on TV. However, the court provides due process and judges based solely on the GCR, the supps, and the evidence presented. Here are some tips:

- You cannot appeal a Chief Steward's Action (CSA). You must first protest it at the event. You have the right to appeal the SOM judgment.
- Cite all the rules. For example, you protest another driver for on-track contact. You cite GCR 6.11.1.A (Avoiding Contact). The SOM decide that the other driver made contact, but that 6.11.1.B (Racing Room) is the applicable rule. Some courts will disallow your protest because you cited the "wrong" rule. This is incorrect, but it happens. You can avoid this problem by making a broad-based protest. Cite 6.11.1.A/B/C/D (On-Course Driver Conduct) and 2.1.4 (Reckless or Dangerous Driving).
- Present your case in a calm and reasonable fashion. This is really the best way. As upset as you may be, make a clear and logical case to the court. Cite rules and evidence.
- You can withdraw your protest.
- Videos can be very useful, but are not compulsory. The SOM will retain your video. SCCA will return it at the end of the appeals period.
- There may be corroborating evidence (especially for incidents on track) in the race log or reports from corner stations. If necessary, remind the court to examine any relevant documents.
- Bring all of your evidence and witnesses to the hearing. Do not assume that the court will look for evidence. If you present the SOM with incomplete evidence, they may not have enough information to reach the correct conclusion. Present the court with all the evidence that supports your case.
- The court is looking for a protest which is "reasonable, logical, and based on sound evidence", thus well founded. If your protest is not well founded, you may forfeit your protest fee. Protestors "whose actions are in bad faith or vexatious" may be penalized.
- Finally, remember that, while this is not a court of law, the SOM will need compelling evidence in order to impose a penalty or to change a result.

An SOM hearing cannot always be a friendly thing, but it can be professional and businesslike.

Appeals

If you are a party to a protest or RFA, you may appeal the SOM judgment. The SCCA Court of Appeals will render a final decision.

Here is an outline of the appeal process:

- You must file your appeal within 10 days of the SOM judgment. Normally, the clock starts when the SOM delivers their judgment. The exception to this rule is for Runoffs qualifying races held less than 28 days before the Runoffs. In this case, you have 48 hours to file your appeal.
- The appeal fee is \$175. SCCA will retain at least \$100 unless the Court directs otherwise.
- The Court will not re-try the original case. You must submit new evidence or demonstrate that the SOM did not provide you due process.
- The Court will not normally contact you about your appeal, nor are you entitled to a “live” hearing. If you have evidence or witness statements relevant to your appeal, include them in your submission.
- The Court will notify all parties to the case and give them an opportunity to make submissions.
- You can withdraw your appeal, except in very specific circumstances, any time before the court starts its review.
- The Court will meet privately, normally within 30 days of receiving your appeal, reach its decision, and deliver a written judgment. It may uphold, overturn, or modify the original SOM judgment, including penalties. It will not order a race to be re-run.
- The Court will determine whether your appeal was well founded. If it was, the Court will return some of the appeal fee. Bad faith appeals will expose you to penalty.
- The Court’s ruling is final, and cannot be appealed further.

You can download a description of the appeal process from <http://driverinfo.johnnesbitt.com>. Also, read GCR section 8.4.

The Key Points

- File your protest promptly. There are hard deadlines.
- Any participant may protest a breach of the rules. Only drivers and entrants may file a mechanical protest.
- You may protest any official's action (or inaction) unless it is specifically exempt from protest.
- The protest need not contain all your witnesses and evidence. You can provide these at the hearing.
- Throw the book at him. Cite any applicable GCR reference. For incidents involving contact, look at 2.1.4. (Reckless Driving) and 6.11.1. (On-Course Conduct).
- The Chief Steward cannot refuse your protest. Insist that he "receive and transmit" it.
- If you do not protest, you do not have standing. File your protest and withdraw it if the steward acts to your satisfaction.
- The SOM can extend the protest filing deadline if circumstances prevented you from filing in a timely fashion.
- The SOM will retain videos, but SCCA will return them at the end of the appeals period. A copy of the entire video is as good as the original.
- Always remain calm, cool, and polite. Present the most complete case possible. The SOM may not do its own investigation.
- If critical witnesses are unavailable, ask the SOM to postpone judgment and contact the witnesses later (or after the event).
- For mechanical protests, ask the SOM Chairman to explain the basis of the bond.
- The protestor may not observe a teardown. Only the SOM, scrutineers, and the protestee may be present.
- If you are a named party to an action, you may appeal the decision of the SOM. There is a strict time limit in which to file.

In Closing

Many of us will go through our entire racing careers without ever encountering a protest. However, they are a fact of life, and sometimes the best tool for the situation.

I am always grateful for your feedback. Please send comments and suggestions to me at john@johnnesbitt.com.