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Sumurun, Fischer, Towbin sued for regatta crash in Rhode Island

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PORTLAND (March 11): The owners of a 103-year-old sailing yacht that sunk during the Museum of Yachting's Robert Tiedemann Classic Regatta in Newport, R.I., on July 7, 2007, are suing the owners of the 94-foot yacht *Sumurun* for more than \$1 million.
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The lawsuit against A. Robert Towbin of New York City and Armin Fischer of Camden was filed in U.S. District Court in Portland March 5 by Jed Pearsall and William Doyle, both of Newport, R.I.



The William Fife-built 1913 yacht *Sumurun* returns to Camden Harbor in August 2007 following a collision with a smaller boat during a regatta in Newport, R.I., on July 7. (Image courtesy of John Sandberg)

Sumurun, designed by William Fife and built in 1914, is a frequent visitor to Camden Harbor.

During the regatta in Newport last summer, a collision between *Sumurun* and two other vessels, *Amorita* and *Alera*, both New York 30s (approximately 43 feet long on deck), occurred as the two smaller boats were approaching a marker and had entered the two-length zone, according to court documents.

In sailboat racing, the two-length zone is an area surrounding a turn marker in which a boat "clear ahead" has the

right of way through and until it completes the turn. It is a rule in the Racing Rules of Sailing, under which the vessels were sailing during the regatta, according to the court document.

Pearsall and Doyle allege in the lawsuit that *Sumurun*, with Towbin at the helm, was coming up fast on the smaller boats. They said in the court document that though Towbin was allegedly advised by an unknown entity that there was not enough room, Towbin reversed the helm and attempted to round the racing mark inside the smaller boats.

"Owner Robert Towbin acted in an arrogant, malicious, outrageous and extreme manner," said the court document.

As a result of Towbin's move, Pearsall and Doyle allege, *Sumurun* collided with both *Alera* and *Amorita*, sinking the latter within 30 seconds.

"During the rounding of the mark off Beavertail Point, *Sumurun* was navigated in a careless and grossly negligent manner, with wanton disregard for safety at sea," said the court document.

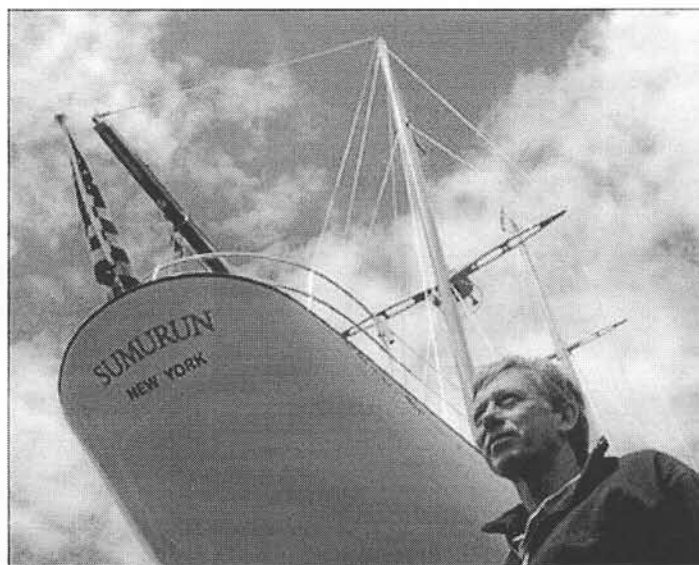
Without signaling its intended course and failing to hail the smaller boats ahead, "*Sumurun* struck *Amorita* broadside, causing *Amorita* to sink and her crew to abandon ship," said the court document. "After the collision, *Amorita* was held afloat, below the surface of the water, by her rigging, which was fouled on the stem of *Sumurun*. *Sumurun* did not render aid to the crew or to the vessel, rather, without permission from *Amorita*'s owner and without even placing a line on *Amorita* to mark her location, *Sumurun* cut *Amorita* away, sinking her to the bottom of Narragansett Bay."

The next day, the owners of *Amorita* and *Alera* filed protests against *Sumurun* with the race's protest committee.

According to exhibits filed with the court document, the Narragansett Bay Yachting Association Protest Committee found that *Sumurun* breached the Racing Rules of Sailing, thereby causing the collisions. The committee also exonerated *Alera* from any contributing fault in the crash and subsequent sinking of *Amorita*.

Two appeals by Towbin followed that ruling, according to the court document. Ultimately, in a letter to Towbin dated Jan. 9, 2008, the U.S. Sailing Appeals Committee upheld the NBYA Appeals Committee's decision to deny the first appeal, according to the court document.

The U.S. Sailing Appeals Committee found and/or upheld that *Sumurun* caused all the collisions and broke at least four rules, including one of them twice, according to the court document. The committee also upheld the exonerations of *Amorita* and *Alera*, according to the court document.



Captain Armin Fischer looks out over Camden Harbor beneath the stern of *Sumurun* in May 2005. (Photo by David Munson)

"*Sumurun* was properly found at fault for the subject collision through private resolution of disputes in an agreed upon forum akin to arbitration which met the requirements for due process and *Sumurun* is therefore responsible for the collision," said the court document.

The court document alleges that *Amorita* sustained damages, losses and expenses estimated at \$1 million. And despite the findings of the NBYA protest and appeals committees and the findings of the U.S. Sailing Appeals Committee, Pearsall and Doyle allege Towbin, Fischer and Sumurun Inc. have paid them nothing.

Pearsall and Doyle are seeking judgment against *Sumurun*, which they are asking to have arrested, condemned and sold to satisfy the damages incurred.

Pearsall and Doyle are also seeking unspecified "consequential" and punitive damages. Pearsall and Doyle are represented by Michael X. Savasuk of Portland. There is no attorney listed for Towbin or Fischer and they have not yet filed a response.

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