

## Sailboat accident defendant in court

Contributed by Elizabeth Larson  
 Saturday, 09 June 2007  
 Last Updated Friday, 15 June 2007

THIS STORY HAS BEEN UPDATED AND CLARIFIED WITH INFORMATION ON BOATING SPEED LAWS AND THE CHARGING DECISION.

LAKEPORT &dash; A Carmichael man facing vehicle manslaughter and boating under the influence charges in connection with an April 2006 boating collision was in Superior Court Friday morning.

Bismarck Dinius, 39, is being held responsible for an April 29, 2006, accident on Clear Lake that fatally injured a passenger on the sailboat he was operating.

Dinius was operating Beats Working II, 27-foot sailboat owned by Mark Weber of Willows after 9 p.m. when the sailboat was hit by a 24-foot powerboat driven by Russell Perdock, a chief deputy with the Lake County Sheriff's Office.

Weber's fiancée, Lynn Thornton, 51, of Willows, was seriously injured in the collision and died several days later at UC Davis Medical Center.

Initial reports from the Lake County Sheriff's Office said the sailboat was operating without running lights, and that both Dinius and Weber had blood alcohol levels above the legal limit.

District Attorney Jon Hopkins said on Friday that he filed the charges against Dinius &dash; felony vehicular manslaughter involving a vessel and misdemeanor boating under the influence of alcohol &dash; several weeks ago.

The case was delayed, he said, because he forwarded it to the California Attorney General's Office to ask for an opinion on whether or not his office should be recused from the prosecution due to its close working relationship with the sheriff's office.

The Attorney General's Office ruled there was no reason for Hopkins' office not to prosecute it, and sent the case back to Lake County.

Hopkins said that process took a while, as did tracking down a couple who were on the sailboat with Dinius, Weber and Thornton. In addition, he said Weber's attorney provided the District Attorney's Office with reports made by insurance company investigators that purportedly turned up more witnesses and evidence.

&ldquo;We then needed to stop and track all of that down,&rdquo; Hopkins said.

Perdock, said Hopkins, was off duty and driving his own boat when the accident happened.

As to Perdock's speed at the time of the collision, Hopkins said his office has not been able to make a determination on that point.

&ldquo;It was impossible to tell&rdquo; how fast Perdock was traveling, said Hopkins, with witness estimates varying widely.

The powerboat was traveling fast enough that it hit the sailboat and was propelled over it, Hopkins explained.

There is no &ldquo;maximum&rdquo; speed limit on the lake, said Hopkins, either from a local jurisdiction or as outlined in the Harbors and Navigation Code.

There is a separate issue of a &ldquo;safe speed,&rdquo; which a 2007 publication, The ABCS of Boating Law, published by the state's Department of Boating and Water Ways, explains this way: &ldquo;A safe speed should be maintained at all times so that: a) action can be taken to avoid collision and b) the boat can stop within a distance appropriate to the prevailing circumstances and conditions. In restricted visibility, motorboats should have the engines ready for immediate maneuvering. An operator should be prepared to stop the vessel within the space of half the distance of forward visibility.&rdquo;

However, that &ldquo;safe speed&rdquo; law also does not affix a specific speed limit, said Hopkins.

Besides that, even using the safe speed evaluation, investigators still cannot determine Perdock's speed at collision, said Hopkins.

Neither can they prove that he is guilty &dash; beyond a reasonable doubt &dash; of criminal negligence, especially if, as Hopkins alleges, the sailboat did not have any lights on.

On Friday, Dinius' attorney, Victor Haltom of Sacramento, didn't enter a plea for his client, said Hopkins. Instead, Haltom requested that arraignment be set for July 13 in order to give him a chance to review the case.

According to the California Penal Code, vehicular manslaughter while under the influence of alcohol can carry a sentence of as many as four years in state prison.

Deputy District Attorney David McKillop is prosecuting Dinius, said Hopkins.

E-mail Elizabeth Larson at [elaron@lakeconews.com](mailto:elaron@lakeconews.com).

{mos\_sb\_discuss:2}