



How the SDRCC *Pro Bono* Program assisted Racquetball Canada

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Appeals are often very divisive and tax the resources of all parties. One may feel that another party hiring legal counsel will put them at a disadvantage or make the process more formal and hostile. On the contrary, in our case, the presence of the SDRCC *pro bono* lawyer facilitated a settlement that everyone agreed was best for all and that did not require a significant investment of resources by any of the parties.

In the fall of 2010, Racquetball Canada (RC) was about to submit its Athlete Assistance Program nominations to Sport Canada when the newly appointed Executive Director noticed an anomaly with the names of athletes that had been submitted by the RC High Performance Committee.

After making some inquiries, she discovered that the High Performance Committee had decided in a meeting in December 2009 to modify the carding criteria. However that decision was never brought forward to the RC Executive Committee for approval, as required in the RC Policy and Procedure Manual. Nor was the decision of the High Performance Committee ever published on the RC website or the carding criteria amended. Therefore RC had no option but to follow the carding criteria originally submitted to Sport Canada. This led to one athlete being awarded a card (according to the original criteria) and left behind the athlete who would have received the card if the High Performance Committee amendments had been implemented as intended the year before.

RC was openly truthful in advising both athletes of the situation and the resulting carding nomination. Once the submission was sent to Sport Canada, the athlete who did not get nominated immediately appealed the decision to RC's Executive Committee.

RC put its internal appeal process in motion. However because the Executive Committee had already been involved in this case internally, the appeal was promptly referred directly to an independent appeal panel to avoid a situation of conflict of interest. The panel upheld the decision of RC. In receipt of the panel's decision, the athlete then filed a request for arbitration to SDRCC.

As the SDRCC process applies, RC was named as respondent and the athlete who had initially been nominated to Sport Canada was invited to participate as an affected party. At the outset of the case, the claimant engaged legal counsel through the SDRCC *Pro Bono* program to assist him in the appeal; meanwhile RC was represented by its own Executive Director and President and the affected athlete, who was at risk of losing her carding status, chose to appear before the SDRCC self-represented.

All parties were convened to a mandatory resolution facilitation session to explore possible settlement options. The two athletes and RC agreed to fully cooperate with this process in the hopes of avoiding a binding award by the arbitrator, which inevitably would result in one of the athletes losing. In a somewhat short period of time during the resolution facilitation process, it became clear that a mediated settlement was possible.

Once an agreement in principle was reached, it was the claimant's *pro bono* lawyer who took the lead in drafting the terms of the settlement on behalf of us all; when Sport Canada required that an arbitral award be rendered in order to recognize and implement the agreement, it was the claimant's *pro bono* lawyer who dealt with the SDRCC, again on our collective behalf, to have the arbitrator issue a consent award. In the end, not only the claimant but all parties benefitted from that *pro bono* lawyer's involvement, because it resulted in the dispute resolution process being professionally managed at no cost to the participants.

RC has learned important lessons which are still paying dividends. There is now a much closer scrutiny of all policies and procedures, from the Committee level up to the Board and Executive. Athletes are much more cognizant of their rights and responsibilities. As much as the services of the SDRCC *Pro Bono* program had a very positive impact on that case, they hopefully will not be required by RC any time soon.■