

IN THE NEUTRAL ZONE

News and Events of the Sport Dispute Resolution Centre of Canada



www.sdrcc.ca

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Early Resolution Facilitation – Resolving Disputes Thoughtfully

by Brian Ward, Designated Safe Sport Contact and Dispute Resolution Officer

I have had the opportunity to access the Early Resolution Facilitation service offered by the Sport Dispute Resolution Centre of Canada in my role as the designated safe sport contact and dispute resolution officer for a variety of sporting organizations. My experience is that this service offers parties a productive avenue to resolve disputes in a timely manner and helps to preserve or restore relations which is often not the case with formal avenues of recourse.

In this article, I share my experiences and observations of this service.

In my role, I am the first point of contact for complaints, appeals and concerns generally.

I triage any matter received and ensure that it is within the jurisdiction of the organization to address and that a fair process and review are undertaken.

In the previous six months, I have referred five matters to the Early Resolution Facilitation service. The matters complained of have been diverse; including discipline, team selection and an appeal of a carding nomination decision. The parties involved have been both represented and unrepresented. The results have been, however, the same; the matters have been resolved. The feedback received from the participants has been positive and includes some of the following benefits.

Resolution Facilitation is, as the term implies, a

process to facilitate communication between the parties to assist them in finding solutions. Often in conflict situations, parties become entrenched in their view and have difficulty considering other perspectives or even explaining their own perspective in terms that can be heard/understood by the other party. A neutral facilitator can bridge communication gaps by rephrasing or drawing out information so both parties have a fuller appreciation of the situation at hand. This confidential and informal means of dispute resolution is adapted to the specifics of each conflict situation (for example, in person or telephone meetings).

The Early Resolution Facilitation service is efficient. Contact with the parties after the filing of a request is almost immediate and depending upon the availability of the parties, scheduling of the resolution facilitation is often accomplished within the week.

The Early Resolution Facilitation process allows parties to have a more candid and fulsome discussion due to the confidential and informal nature of the process. A sporting body also has a greater opportunity to explain the decision-making process more directly in this type of setting. The parties have the ability to acknowledge concerns and undertake changes openly and straight away to avoid future issues.

The neutrality of the Early Resolution Facilitation service is helpful in ensuring that

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Early Resolution Facilitation - Resolving Disputes Thoughtfully *(continued)*

parties have a voice that is being heard. They interact with a facilitator who has been selected by an independent body (Sport Dispute Resolution Centre of Canada) or upon the agreement of the parties. The neutrality of the facilitator allows them to hear each party's perspective and to provide a candid review of the situation which can then help the parties see the situation more fully and possibly reassess their positions.

The Early Resolution Facilitation service works with the parties to craft an agreement that the parties direct and consider acceptable in resolving the dispute. In working together to craft the solution, the parties are more likely to avoid the winner/loser result that flows from formal processes which can then lead to a deeper adversarial relationship moving forward.

The Early Resolution Facilitation service is offered at no cost to parties of sport organizations funded by Sport Canada. The strain on resources experienced by sporting organizations juggling multiple priorities is well known. An early resolution means not only promoting better relationships but also avoids tying up scarce organizational resources (financial and human) in the administration of a formal process.

While the matters I have referred have been successfully resolved through the resolution facilitation process, clearly this will not always be possible. Res-

olution is not the only indicator of success. Resolution facilitation also allows parties to narrow the issues in dispute, limit or agree upon the evidence to be considered, and/or remove (as much as possible) the emotion or animus as they then pursue a formal process.

Referral to the Early Resolution Facilitation service is a sound business decision for any national sporting organization to address a dispute or appeal and is encouraged as a productive means to resolve differences.

For more information regarding the Early Resolution Facilitation service, download the SDRCC publication entitled "Early Resolution Facilitation For Sport Organizations in Canada" available on its website. ■

www.crdsc-sdrcc.ca/eng/documents/CRDSC-Early_RF-EN.pdf



EARLY RESOLUTION FACILITATION
For Sport Organizations
in Canada

Resolution Facilitation ("RF") was introduced to the sport community by the SDRCC in 2006 as an informal dispute resolution mechanism to help parties to a dispute explore possible solutions in a safe environment. The experience has been fruitful and has set a solid foundation for custom-made dispute resolution for Canadian sport. The resolution facilitator is a professional mediator whose role is to provide a forum for parties to openly communicate with one another and, where possible, guide them to an amicable settlement. Where a settlement is not possible, parties often leave the RF session with a better mutual understanding and respect, as well as alternative paths and resources to resolve their dispute. In *Early Resolution Facilitation*, the next step for parties would be the internal appeal process of the sport organization.

WHAT ARE THE ADVANTAGES?

LESS COSTLY

Since 2006, RF is a mandatory step in the arbitration process of the SDRCC. Almost 40% of the disputes brought before the SDRCC are settled amicably before going to arbitration. This means that sport organizations incorporating Early Resolution Facilitation to their appeal process can reduce by up to 35-40% the number of internal appeals to be conducted. Adopting such measures can allow sport organizations to invest more into the development of their athletes and their sport instead of spending time, money and other scarce resources in conducting appeals.

Updated and Redesigned Publications

Dispute Prevention for COACHES

Dispute Prevention for Coaches: Coaches should understand their rights and obligations to prevent and resolve disputes and know where to find help if necessary. Our revamped brochure is a must-read for any coach looking to minimize the risk of disputes! www.crdsc-sdrcc.ca/eng/documents/SDRCC_Coaches_Brochure_2019_EN_final_web.pdf

Athlete Carding - Appeal process:

During their career, athletes' successes may qualify them to be nominated for carding. If they disagree with a carding decision that affects them, whether it be the exclusion or rejection of their nomination or the withdrawal of their card, this document provides an overview of resources available and possible recourses to challenge such a decision.

ATHLETE CARDING Appeal Process

www.crdsc-sdrcc.ca/eng/documents/CRDSC-Carding_sept19-VA.pdf



SDRCC Roster Member Profile: Learning More About our Arbitrators and Mediators

They come from every region of Canada and have extensive experience in alternate dispute resolution and sports-related issues, but how much do we really know about them? The SDRCC has an impressive list of 48 mediators and arbitrators and we will slowly be introducing you to some of them through our regular installments of “SDRCC Roster Member Profiles”. In this edition we would like to present **Michelle Simpson, a Mediator from Edmonton, Alberta.**



What Led You To a Career in ADR?

I can recall saying to my first ADR instructor that I thought mediation was a “waste of time”. Needless to say, 4 hours into my first ADR course, I was not only regretting my words but also committing to sign up for the whole Certificate in Conflict Resolution program. As a lawyer, I truly believed that justice could only be found in a courtroom; how wrong I was.

What led me to a career in ADR was finally seeing how win/win scenarios can be achieved when skilled persons are at the negotiation table in order to assist parties to have the best possible discussion about whatever it is they need to talk about. I have always believed that parties are the best persons to find their own solutions; I just didn’t know how was best to get them there.

Specialization/Area of Expertise:

In my law practice and as a Mediator and Arbitrator, the one constant has been dealing with construction issues. I love all the moving parts, the complexities, and the intellectual challenge that comes from understanding not only what has been written on paper, but also what has happened at the project site. Sports came later in my career. I have mediated sports-related issues for the SDRCC and I have investigated sports-related issues for national, provincial and local sport organizations. I like to believe that my work in this area helps promote a good life for those who choose to be involved with sport.

As a Mediator Neutral with the SDRCC, I...

...have learned that even mandatory suspensions that flow from, as an example, a finding of doping, can be mediated relative to items such as: content of the press release; start of the suspension (within reason); and timing of the press release (within the rules). I have learned that strong views which have been adopted by parties over a long period of time are challenging but not impossible to work with. I have learned that mediation can be successfully carried out over a telephone.

Favorite Sport(s):

My favorite sports to play are golf followed by pickleball. Rowing is a summer pastime of mine. My youngest son was a professional hockey player for many years and so I have a good understanding and interest in issues involving hockey.

Dispute Prevention Tip for Athletes and Federations:

Read, know and adhere at all times to the principles of safe sport. If your sport organization has adopted the “Rule of Two” it is important that every athlete, every coach and those within the organization read what the “Rule of Two” actually says to ensure a proper and full understanding of its meaning. Ensure that you do your part to ensure compliance with the “Rule of Two”; it could save all of you from a most unfortunate circumstance. ■

In our next edition, look for the profile of another SDRCC Roster Member.

Follow Us on Social Media: Stay current on the publications of new decisions while keeping up with the Sport Dispute Resolution Centre of Canada’s activities and newest educational publications!



@CRDSC_SDRCC



@crdscsdrcc



Sport Dispute Resolution Centre of Canada



Expansion of the Investigation Unit



Following a third round of selection, the Investigation Unit now has 25 investigators, 4 of them being fully bilingual.

Together, they cover 8 provinces and territories: Alberta, British Columbia, Manitoba, Northwest Territories, Nova Scotia, Ontario, Prince Edward Island and Quebec. An investigator from Maine has also been selected and trained to serve as a resource when part of an investigation needs to be held south of the border.

For more information regarding the Investigation Unit and to contact investigators:

www.crdsc-sdrcc.ca/eng/investigation-unit

SDRCC Meeting Rooms for Hire

Premium location: At the heart of the business district in downtown Montreal, within walking distance of subway stations, the Central train station and several bus stops (including the 747 airport shuttle).



ROOMS AVAILABLE:

Main Room: fits 10 persons and includes Wi-Fi, 55" HD screen and computer for projection. Large window with natural light.

Breakout Room: fits 6 persons and includes Wi-Fi, whiteboard, LCD projector and portable computer. Ideal for private breakouts, caucusing or as waiting area.

Rental Conditions:

- ❖ Rental for a full day or half a day;
- ❖ Rental of one or both rooms;
- ❖ Access to turnkey teleconference/ videoconference services and technical support for a fee;
- ❖ Special rates for not-for-profit organizations and SDRCC roster members.



1080 Beaver Hall Hill, Suite 950

For more information, contact Martin Gariépy at mgariépy@crdsc-sdrcc.ca or 514-866-1245 x 224

New SDRCC Staff Member



Fifi Manesa joined the SDRCC on December 16 as Administrative Assistant. She is responsible for the coordination of corporate affairs and for assisting with the general administration of the SDRCC office. She is a self-starter who takes leadership in advocating for social issues related mostly to women and youths in her community since a very young age. Fifi is currently pursuing international cooperation studies at the University of Montreal. Sports wise, she is an avid of tennis and basketball and was a member of her high school basketball team. Fifi confesses to slowly being won over by Montreal Canadiens since moving to Montreal, but she remains a Calgary Flames fan; at least for a little while... ■

Notable Dates

- **February 4:** Workshop to “Managing a Sport Club” students, Laval University (Quebec City, QC);
- **February 11:** Presentation to law students at Queen’s University (Kingston, ON);
- **February 18 and 25:** Presentation to Advanced Coaching Diploma students at INS Québec (Montreal, QC);
- **March 4:** Presentation to sport management students at University of Ottawa (Ottawa, ON);
- **March 13:** Presentation to law students of University of Victoria (Victoria, BC);
- **April 15-17:** Presentation at the Safe Sport International Conference (Quebec City, QC). ■



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