



American Arbitration Association

*Dispute Resolution Services Worldwide*

**American Arbitration Association**

**Commercial Arbitration Tribunal**

**Final Arbitration Award**

**AAA Case 01-18-003-1976**

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**HOPE SOLO**

**Claimant,**

**and**

**UNITED STATES SOCCER FEDERATION, INC.**

**Respondent.**

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Pursuant to the Commercial Arbitration Rules of the American Arbitration Association (AAA), presently in effect, the Ted Stevens Olympic and Amateur Sports Act (codified at 36 U.S.C. §220501, *et. seq.*) (Stevens Act), the Bylaws of the United States Olympic Committee (USOC) and the United States Soccer Federation Inc. (USSF), Arbitrators Hon. Connie L. Peterson, Hon. Rebecca A. Albrecht and Carolyn B. Witherspoon, Esq. held an Arbitration Hearing (Hearing) in this case on May 7, 2019, and having considered the pleadings submitted in this case and the statements and arguments of counsel, make the following findings, conclusions and issue the following Arbitration Award:

## INTRODUCTION

Claimant Hope Solo was present during the Hearing with counsel Andrew M. Behrman, Esq., Baker Botts LLP, New York, New York and Michael Calhoun Esq, Baker Botts LLP, Washington, D.C.

Respondent was represented during the Hearing by Sarah Mitchell, Esq., Latham & Watkins LLP, Los Angeles, California.

Gary Johansen was also present during the Hearing as an observer from the USOC.

The parties did not present any witnesses for testimony or exhibit evidence during the Hearing.

## BACKGROUND

1. In an Order dated March 4, 2019, the Arbitrators determined that the applicable standard of review in this case is a legal *de novo* review.
2. The USOC previously withdrew its request to participate in this arbitration.
3. Claimant is a former member of the United States Women's National Soccer Team, a two-time gold medal Olympic athlete and a FIFA World Cup champion.
4. Claimant filed a complaint with the USOC on January 30, 2018, alleging that Respondent failed to comply with numerous requirements and duties provided in the Stevens Act and the USOC Bylaws. In her complaint before the USOC, Claimant alleged that Respondent fails to be responsible to the persons and organizations it represents, fails to be independent, improperly delegates decision-making and governance matters, fails to be free from outside restraints and fails to be transparent and accountable to its members.
5. The USOC appointed a hearing panel to consider Claimant's complaint. Respondent moved to dismiss Claimant's complaint on the grounds that she failed to exhaust her

remedies under Respondent's Bylaws and that she failed to state a claim for relief. The hearing panel bifurcated the motion and dismissed the complaint on the grounds that Claimant failed to exhaust her remedies through Respondent.

6. On or about August 23, 2018, Claimant submitted her Demand for Arbitration against Respondent pursuant to the Stevens Act, §220529(b)(2) which authorizes this arbitration under the AAA Commercial Rules. The Stevens Act charters and grants monopoly status to the USOC and provides requirements for its member national governing bodies (NGB) for individual sports. Respondent is the NGB for U.S. soccer.
7. In her Demand for Arbitration, Claimant alleged that (1) she is not required to exhaust Respondent's remedies; (2) Respondent's hearing panels do not comply with the 20% athlete representation requirement; (3) Respondent's remedies are not "within" the NGB for correcting deficiencies; and (4) Respondent's remedies would result in unnecessary delay.
8. Claimant asks for relief in this arbitration for an arbitration award stating that she is not required to exhaust Respondent's remedies stated in its Bylaws before proceeding to the merits of her complaint.

#### **FINDINGS AND CONCLUSIONS**

##### **Claimant is not required to exhaust remedies that violate the Stevens Act and the USOC**

##### **Bylaws.**

9. The Stevens Act and USOC Bylaws § 8.8.1 require that NGB committees and panels empowered to resolve grievances must comprise at least 20% athlete representation. One of the purposes of the USOC as established by the Stevens Act is the protection and development of athletes and their amateur activities. The twenty percent athlete

requirement is Congress' and the USOC's recognition of the importance of including athletes in the governing affairs of NGBs, particularly the resolution of disputes within an NGB.

10. Respondent's discouraging remedy under Bylaw §703 to resolve grievances provides for a single AAA arbitrator in the first instance and then for an appeal to an AAA appellate rules panel. This procedure is similar to the situation in *Hightower v. US Bowling Congress* in which the reviewing hearing panel held that Stevens Act and USOC Bylaws require 20% athlete representation on hearing panels; therefore, the one-person hearing panel was not in compliance with either the Stevens Act and USOC Bylaws.
11. Respondent's Bylaws §703, which is the relevant section under which Claimant's complaint would lie, fails to allow for 20% athlete representation on committees and panels to resolve grievances. Accordingly, Respondent's grievance procedures under Bylaw §703 violates the Stevens Act and USOC Bylaws. Claimant is not required to exhaust procedures that violate the laws of the United States.
12. There are no available and appropriate remedies within the Respondent's Bylaw §703 to exhaust. Given the absence of an appropriate internal grievance procedure, exhaustion is not required.
13. Respondent's argument that its Bylaws §703 arbitration panels (of one at first tier or more than one under AAA appellate rules) are, somehow, "not a panel to resolve grievances" or are not "Designated Committees" is without merit.

**Claimant is not required to exhaust Respondent's Bylaw §703 grievance procedure.**

14. Claimant has met her burden to show by clear and convincing evidence that exhausting Respondent's grievance procedures found in Bylaw §703 would cause unnecessary delay.
15. As concluded above, Respondent's grievance procedures under Bylaw §703 violates the Stevens Act and USOC Bylaws. Claimant is not required to exhaust procedures that violate the laws of the United States. Requiring Claimant to proceed with procedures that violate the Stevens Act and USOC Bylaws causes a significant delay in finalizing her grievance which is completely unnecessary.
16. Additionally, Respondent's remedies under Bylaws §703 cause unnecessary repetition and delay.
17. Apparently, no other NGB requires duplicate AAA arbitrations. Respondent's procedure stands alone next to most, if not all, other NGBs that currently comply with the USOC Bylaws. For the most part, each NGB establishes a three-person internal hearing panel (one of which is an athlete) to resolve grievances.
18. Requiring Claimant to submit to numerous AAA arbitrations results in unnecessary delay. The time involved for multiple arbitrations is significant and it is unnecessary.

**We do not address Claimant's argument that the Stevens Act requires exhaustion of remedies *within* the relevant NGB.**

19. Claimant argues that the Stevens Act requires exhaustion of remedies *within* the NGB rather than delegating the grievance solely to arbitrators. Because of our conclusions stated above, we do not address this argument.

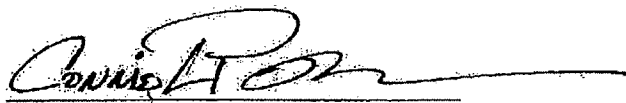
### ARBITRATION AWARD

1. The Arbitrators find for the Claimant and against Respondent.
2. Claimant is not required to exhaust Respondent's remedies stated in its Bylaws §703 before proceeding to the merits of her complaint submitted to the USOC.
3. Claimant's complaint previously submitted to the USOC is re-referred to the USOC for a hearing on the merits of the complaint.
4. The administrative fees of the American Arbitration Association totaling \$1,500.00 shall be borne by the Respondent, and the compensation of the arbitrators totaling \$30,675.00 shall be borne by the Respondent. Therefore, Respondent shall reimburse the sum of \$16,837.50, representing that portion of said fees and expenses in excess of the apportioned costs previously incurred by Claimant.
5. This Award is in full settlement of all claims and counterclaims submitted to this Arbitration. All claims not expressly granted herein are hereby denied.
6. This Award may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute together one and the same instrument.

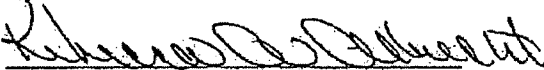
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Signature Page

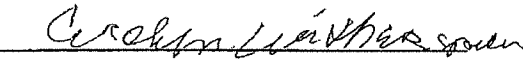
Dated: May 28, 2019

A handwritten signature in cursive script, appearing to read "Connie L. Peterson", written over a horizontal line.

Hon. Connie L. Peterson, Arbitrator Chair

A handwritten signature in cursive script, appearing to read "Rebeca A. Albrecht", written over a horizontal line.

Hon. Rebeca A. Albrecht, Arbitrator

A handwritten signature in cursive script, appearing to read "Carolyn B. Witherspoon", written over a horizontal line.

Carolyn B. Witherspoon, Esq.