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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AKIYAMA, *et al.*,

Plaintiffs,

v.

UNITED STATES JUDO
INCORPORATED, *et al.*,

Defendants.

No. C97-0286L

ORDER DENYING DEFENDANTS'
MOTION TO CONFIRM
ARBITRATION AWARD AND
DENYING PLAINTIFFS' MOTION
FOR RELIEF FROM STAY

This matter comes before the Court on Defendants' Motion for Confirmation of Arbitration Award, Dismissal of Plaintiffs' Claims. With their response, plaintiff's filed a related Motion for Relief from Stay. Both motions are considered herein.

Plaintiffs, participants in the sport of judo, seek an end to defendants' requirement that they bow to inanimate objects such as portraits and tatami mats prior to judo matches. Plaintiffs claim that such practices violate their religious beliefs and discriminate against them in violation of the Amateur Sports Act (36 U.S.C. § 391(b)), the Civil Rights Act of 1964 (42 U.S.C. § 2000a), the Washington Law Against Discrimination ("WLAD," RCW 49.60.010 *et seq.*), and the Washington Consumer Protection Act ("CPA," RCW 19.86.010 *et seq.*).

On May 13, 1997, this Court required plaintiffs to follow the administrative grievance procedure provided in the Amateur Sports Act ("ASA") and stayed the remaining claims until the administrative process was exhausted. The Court also entered a preliminary injunction against defendants, forbidding them from disqualifying the named plaintiffs from judo tournaments for refusing to bow outside the contest area. Thereafter, plaintiffs filed a complaint

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1 with United States Judo Incorporated ("USJI"), the national governing body for judo under the
2 ASA. See 36 U.S.C. § 391. USJI appointed a panel to hear plaintiffs' complaint. The panel
3 found no religious discrimination or any other ASA violations by defendants. Plaintiffs then
4 chose to appeal to the United States Olympic Committee ("USOC"), the corporation empowered
5 to oversee organized amateur sports in the United States. See 36 U.S.C. § 374. Rather than
6 timely respond to the complaint in a manner contemplated by 36 U.S.C. § 395(a), the USOC's
7 general counsel sent what appears to be an opinion letter to plaintiffs' counsel, advising
8 plaintiffs that the practice of bowing does not constitute religious discrimination at the national
9 level and requiring further administrative proceedings with USJI.

10 Plaintiffs then filed their first request for relief from stay. The Court denied the
11 request, requiring plaintiffs to continue through both the mandatory and permissive steps of the
12 administrative appeal process and specifically noting that plaintiffs had yet to complete "USJI's
13 arbitration procedure, USOC's complaint process, and finally USOC's own arbitration
14 procedure." Order Denying Relief From Stay at 3 (1/7/98). Plaintiffs re-initiated the
15 administrative process by appealing the USJI panel decision to an arbitrator from the American
16 Arbitration Association ("AAA"). When the arbitrator found no violation of the ASA, plaintiffs
17 filed a complaint with the USOC, as provided in 36 U.S.C. § 395(a)(1). The USOC again failed
18 to conform its review of plaintiffs' complaint to the statutory requirements: rather than holding
19 "a hearing to receive testimony for the purpose of determining if [USJI] is in compliance with
20 the requirements of sections 391(b) and 392" of the ASA, the USOC "investigated the matter"
21 and found that USJI's bowing requirements did not violate the ASA. Decl. of Fleming, Exhibit
22 13.

23 The USOC's letter opinion apparently was written on October 16, 1998, but not
24 received by plaintiffs' counsel until December 30, 1998. No further action was taken in this
25 matter until defendants moved for confirmation of the arbitrator's decision and dismissal of the
26 remainder of plaintiffs' claims. Plaintiffs then filed their second motion for relief from stay,

1 arguing that because the USOC had twice failed to comply with the requirements of 36 U.S.C. §
2 395(a), further administrative appeals would be futile and this Court should exercise jurisdiction
3 over the ASA claims and proceed to consider the merits of all plaintiffs' claims.

4 Congress has specifically set forth the administrative process through which
5 plaintiffs must challenge USJI's bowing requirements. See 36 U.S.C. § 395(a) and (c). The
6 Court is not free to alter that scheme (see, e.g., McCarthy v. Madigan, 503 U.S. 140, 144
7 (1992)), and, even if the Congressional mandate could be avoided in some way, the Court is not
8 so inclined in light of the possibility that arbitration may still result in a ruling favorable to
9 plaintiffs, thereby mooting much, if not all, of plaintiffs' remaining claims. As discussed above,
10 plaintiffs have exhausted their remedies at the USJI level, but, because of the procedural
11 irregularities in the way the USOC has handled their complaint, there is uncertainty as to
12 whether the USOC has made a determination that could be appealed, pursuant to § 395(c)(1), to
13 the regional office of AAA. In such circumstances, plaintiffs' confusion regarding the
14 appropriate course of action and their failure to file an arbitration demand within thirty days was
15 both understandable and reasonable. The Court must now, therefore, determine whether
16 plaintiffs should be required to re-file their complaint with the USOC in the hopes that it will
17 abide by the governing statute or whether plaintiffs may proceed to arbitration under § 395(c)(1).

18 Plaintiffs have done everything they were required to do to bring their complaint
19 before the USOC. Any insufficiency in the process given that complaint was the fault of the
20 USOC, not plaintiffs. Nevertheless, the statutory prerequisite to a demand for arbitration, i.e.,
21 that there be a "determination" by the USOC, must be met in order to trigger plaintiffs' right to
22 arbitration. See Weinberger v. Salfi, 422 U.S. 749, 766-767 (1975) (while Congressional
23 requirement that administrative agency issue a "final decision" cannot be dispensed with by the
24 trial court on the grounds of futility, the court may determine whether there has, in fact, been a
25 "final decision" despite failure to grant a hearing or otherwise follow the prescribed procedures).
26 The Court finds that the Executive Director's letter concluding "that the ceremonial bowing

1 requirements of USJI do not rise to the level of proscribed racial, religious or national origin
2 discrimination and are not violative of the obligations of a National Governing Body" reflects a
3 USOC determination as that term is used in the ASA. Plaintiffs may, therefore, appeal that
4 determination to the AAA.

5 Defendants have requested that, even if the Court declines to confirm the USJI
6 arbitration award, it should substantively consider and dismiss plaintiffs' remaining claims under
7 the federal civil rights act, the WLAD, and the CPA. Plaintiffs have also requested that the
8 Court consider the merits of their remaining claims. Because there remains a possibility that the
9 USOC arbitration will result in a ruling favorable to plaintiffs, thereby mooting most, if not all,
10 of plaintiffs' other claims, the Court will not consider those claims at this point. Both the stay
11 and injunction imposed on May 13, 1997, shall remain in place at least until plaintiff has
12 obtained a final, binding decision of the arbitrators under 36 U.S.C. § 395(c).

13
14 For all of the foregoing reasons, defendants' motion to confirm the arbitration
15 award is DENIED, plaintiffs' motion for relief from stay is DENIED, and, in light of the
16 procedural irregularities arising from USOC's failure to follow the statutory requirements,
17 plaintiffs shall have thirty days from the date of this order to file a demand for arbitration with
18 the AAA pursuant to 36 U.S.C. § 395(c)(1).

19
20 DATED this 23 day of September 1999.

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23 _____
24 Robert S. Lasnik
25 United States District Judge
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