

PRACTICE

DISCOVERY

Production of Documents

Material in the possession of a tribunal — Directions as to procedure — These were reasons resolving impasse between parties arising in underlying appeal from respondent Minister's refusal to register appellant as Canadian amateur athletic association (CAAA) — Following procedure provided by *Federal Courts Rules*, SOR/98-106, rr. 317, 318, 350, appellant requesting that respondent send it "[a] certified copy of any and all materials produced by, referenced, consulted or relied upon in any way by the Minister in refusing to register the [appellant] as a [CAAA] up to the time the Notice of Refusal to Register was issued" — Respondent objecting to this request and also redacting certain information from certified tribunal record — Parties reaching impasse concerning respondent's objections — Respondent bringing motion for confidentiality order in relation to redacted information — Court ordering that certain documents be filed confidentially for purposes of disposition of parties' r. 317 dispute — Issues to be determined herein (1) whether redactions should continue to be treated confidentially; (2) whether Court should make order under r. 318(4) for further disclosure — Redacted information subject to solicitor-client privilege, should continue to be treated confidentially — As to second issue, appellant submitting that r. 350 requiring that rr. 317, 318 be interpreted more broadly in context of appeals than in context of applications for judicial review — Relying on provision in r. 350 for application of rr. 317, 318 to appeals "with such modifications as are necessary" — Words "with such modifications as are necessary" not calling for different substantive application of rr. 317, 318 in appeals — Seven other rules including this phrase — Apparent intention being to adopt procedures from one procedural context for purposes of another, without substantive change — R. 350 not requiring heightened standard of disclosure under rr. 317, 318 in context of statutory appeals — Given grounds of appeal, purpose of rr. 317, 318, respondent should be required to produce any material apart from that already provided that was before respondent when decision made, with exception of properly redacted information — Order made accordingly.

TOMORROW'S CHAMPIONS FOUNDATION V. CANADA (NATIONAL REVENUE) (A-224-19, 2020 FCA 42, Laskin J.A., reasons for order dated February 7, 2020, 10 pp.)