

Court File No. CV-14-514423

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

SAMUEL BERG

Plaintiff

- and -

**CANADIAN HOCKEY LEAGUE, ONTARIO MAJOR JUNIOR HOCKEY LEAGUE,
ONTARIO HOCKEY LEAGUE, WINDSOR SPITFIRES INC., LONDON KNIGHTS
HOCKEY INC., BARRIE COLTS JUNIOR HOCKEY LTD., BELLEVILLE SPORTS
AND ENTERTAINMENT CORP., ERIE HOCKEY CLUB LIMITED, GUELPH STORM
LIMITED, KINGSTON FRONTENAC HOCKEY LTD., 2325224 ONTARIO INC.,
NIAGARA ICEDOGS HOCKEY CLUB INC., NORTH BAY BATTALION HOCKEY
CLUB LTD., GENERALS HOCKEY INC., OTTAWA 67'S LIMITED PARTNERSHIP,
THE OWEN SOUND ATTACK INC., PETERBOROUGH PETES LIMITED,
COMPUWARE SPORTS CORPORATION, SAGINAW HOCKEY CLUB, L.L.C., 649643
ONTARIO INC c.o.b. as SARNIA STING, SOO GREYHOUNDS INC., 1056648 ONTARIO INC.,
KITCHENER RANGER JR A HOCKEY CLUB, and SUDBURY WOLVES HOCKEY CLUB
LTD.**

Defendants

Proceeding under the *Class Proceedings Act*, 1992, S.O. 1992, C.6

AFFIDAVIT OF ANDREW AGOZZINO
(SWORN NOVEMBER 8, 2015)

I, Andrew Agozzino, of the City of San Antonio, in the State of Texas, MAKE OATH
AND SAY:

1. I am a former player for the Niagara IceDogs, and, as such, have knowledge of the matters contained in this affidavit.
2. Where my knowledge is based on information obtained from others, I have so indicated and believe that information to be true.

OVERVIEW

3. In this affidavit, I provide evidence on the following matters:
 - (a) **Background:** I briefly outline my background and how I became a major junior hockey player.
 - (b) **Time with the IceDogs:** I discuss my time in the OHL, playing for the Niagara IceDogs, including my contract, time commitments, hockey development and academic education.
 - (c) **Billeting Family:** I discuss my experiences living with a billet family during my OHL career.
 - (d) **Comparison of Hockey Experiences:** I discuss my experiences playing minor league hockey and professional hockey in the American Hockey League and National Hockey League and how these experiences compared to my time in the OHL.
 - (e) **Class Action:** I discuss my views on the consequences of this class action on the players and the OHL.

BACKGROUND

4. I am a former player in the Ontario Hockey League (“**OHL**”) for the Niagara IceDogs. I was the first player ever selected to play with the Niagara IceDogs after the team moved to Niagara in 2007. I was selected 17th overall in the 2007 OHL Priority Selection and played with the IceDogs for the entire time that I was in the OHL. I played hockey with the IceDogs for five seasons from 2007-2012. When I began playing with the IceDogs, I was 16 years old, and when I left the team, I was 20 years old. During my final three seasons with the IceDogs, I was the team’s captain.
5. Before joining the IceDogs and the OHL, I played minor hockey in the Greater Toronto Hockey League (“**GTHL**”). The GTHL is a local minor league hockey organization in the Toronto area. The GTHL is a common stepping stone for players who wish to play in the OHL.

6. I was never drafted by an National Hockey League (“**NHL**”) team, but I signed a professional contract in the American Hockey League (“**AHL**”) for the 2012-2013 season. The AHL is a professional hockey league. AHL teams are affiliated and connected to NHL teams. This means that players under contract with NHL teams will often play on their AHL team if they are not skilled enough or ready to play with the NHL team just yet. Sometimes, players sign directly with AHL teams in hopes that the affiliated NHL team will notice their skill level and hard work and eventually sign them to an NHL contract.

7. Because of the success I achieved during my first AHL season, I was able to sign a two year contract with the NHL’s Colorado Avalanche in 2013 and played one game with the Avalanche during the 2014-2015 season. At the expiry of my initial contract, I signed a one year contract with the Colorado Avalanche for the 2015-2016 season. I am now playing for the Avalanche’s AHL affiliate team, the San Antonio Rampage. I have played three full seasons in the AHL. Attached as **Exhibit “A”** are my career hockey statistics.

TIME WITH THE ICEDOGS

8. Playing hockey in the OHL, for the IceDogs, was an unbelievable experience. Bill and Denise Burke, the owners of the team, are the two people most responsible for building a team and organization that prides itself on respect, loyalty and support. The Burkes treated all of us players like their own children. Within hours of being selected by the IceDogs, the Burkes made me feel welcome and I could instantly tell that they were genuine, down-to-earth people who cared significantly about their players and their players’ families.

9. The Burkes were always available, always around and always so passionate about the IceDogs and the IceDogs players. Bill Burke is the team’s biggest fan – he was always in the building, always cheering the loudest at every game. We knew that the Burkes cared for us. The Burkes regularly took us out for team dinners at The Keg and we received Christmas gifts every year. The organization always did the “little things” that made us players feel accommodated, supported and comfortable. We were always taken care of in a first-class manner by the organization, no matter what the situation. For example, I suffered two minor injuries during my time with the team (broken teeth and a concussion). The team paid for all medical expenses, whether they were covered by insurance or not.

10. The Burkes' involvement in the team, as well as the community, made our playing experience that much more fruitful. The community was so accepting of the team and the players – we were treated like mini-celebrities wherever we went. As a teenage boy playing hockey, I could not ask for a better experience.

11. During my time with the IceDogs, my family and I formed a fantastic relationship with the Burkes. This relationship was more than just about hockey and never once felt like an owner-player hierarchical relationship. The Burkes took care of me and my family from day one. Once I was done playing with the IceDogs, my parents hosted the Burkes for a dinner and get together at our place.

12. I am now over three years removed from my OHL career, but my family is still very close with the Burkes and with the IceDogs organization. I regularly attend the IceDogs' annual golf tournament to kick off their season. During the summers, our families still keep in touch. The Burkes are genuinely great people who always have the best intentions in running and operating the IceDogs. I can confidently state that I had an overwhelmingly positive experience playing in the OHL with the Niagara IceDogs.

Standard Player Agreement

13. When first joining the IceDogs in 2007, I signed a Standard Player Agreement (“SPA”).

14. My parents were involved throughout the process and I also had an agent who assisted us in explaining what the contract included and what I was signing. My agent clearly laid out the terms of the SPA for myself and my parents. I read the SPA and understood it. I did not think I was entering into an employment relationship.

15. From my recollection, we were all very happy with the benefits I was to receive as an OHL player. Most importantly, I was thrilled and extremely excited to be playing hockey in the OHL.

16. I had considered possibly playing in the NCAA instead of the OHL, however in the end, it was a relatively easy decision to join the OHL. Growing up in Ontario, attending OHL games as a child and seeing how great of a developmental league the OHL is, made my decision an easy

one. Further, the OHL offered all the educational benefits that the NCAA offered – educational support as a player and a scholarship package for when I had completed my OHL career.

Time Commitment

17. During my first few seasons with the IceDogs, I was a high school student. I would attend school every day until 1:00PM. On non-game days, after school, I would go to the rink and attend practice for approximately one hour, from 2:00PM to 3:00PM. After practice, we would take a short ride to the team's White Oaks facility for a one hour workout, from 4:00PM to 5:00PM. The White Oaks facility was a 5-star resort and hotel that we were very fortunate to have access to. The amenities at the facility were unbelievable and top of the line. When I had completed high school, the only change would be that my one hour workout would take place from 9:00AM – 10:00AM. I would then have some free time before the 2:00PM practice and my day would end after practice.

18. Our game day schedules would vary, however on a typical home game day, we would not be required to arrive at the rink until 5:00PM. Our games would be played from 7:00PM – 9:20PM and I would be home by 10:00PM.

19. Even though we were not required to be at the rink before 5:00PM on game days, we often still arrived early to just hang out, have a light skate, workout, or play video games. We, the players, were like a family – we enjoyed spending time together, we enjoyed spending time at the rink with the team, and we enjoyed interacting with the team's staff and owners.

20. At no time did I ever feel like an employee. I felt lucky and privileged to be playing in the OHL, a position that so many others had strived for but were not able to achieve. At no point during our practices, games, leisure time, workouts or training did I feel like an employee of the team or the Burkes – this type of relationship never crossed my mind. I felt like I was part of a large family that was focused on developing us players to be great hockey players and great people. As I've mentioned already, I felt like one of the luckiest people in the world to be playing for the IceDogs and the Burkes.

Hockey Development

21. One of the reasons I chose the OHL over the NCAA was because I knew it was the highest level of hockey I could be playing in my age range, giving me the best opportunity to succeed and possibly make the NHL.

22. We had constant access to ice time, which allowed us to develop our skills continuously and consistently. We had amazing training staff, hockey staff and coaching. We had access to some of the best equipment, medical facilities and training facilities I've ever experienced – we received whatever we needed to become better hockey players.

23. I am extremely confident that I would not be the successful hockey player I am today without the hockey development I experienced playing in the OHL.

Education

24. I received an exceptional education while playing in the OHL. I attended Governor Simcoe Secondary School for my final two years of high school while playing with the team.

25. I had no issues maintaining my grades while with the team. I was home most days of the week by 6:00PM and had ample time to complete my homework and study. If I ever had any academic issues, we had access to a vast array of educational resources. The team had an academic advisor that worked with both the school and the team. We were given access to tutors and all tutoring was paid for by the team whenever we needed assistance.

26. The IceDogs bent over backwards for us. The Burkes made sure that all of us players were doing well in school. They had a close relationship with the school's principal and were always looking for new ways to provide us with educational resources to better our grades and academic experience. Our billet families also assisted us with homework whenever they were able.

27. I believe my educational experience was similarly shared amongst most of my teammates. The fact that we had so many academic resources, and because the Burkes genuinely cared about our education, it made it very easy to keep our grades high and do well in school.

BILLET FAMILY

28. While playing hockey with the IceDogs, I had two billet families – one family for my first year and another family for my final four years.

29. My billet family over my final four years with the team instantly became my second family. They went above and beyond any expectations I had. We got along very well and developed a very close, respectful and enjoyable relationship.

30. The family had a general set of rules that I was required to follow. These were general household rules that any family would expect to have to ensure that the household ran smoothly. I was happy to abide by these household rules and we never really dealt with any disciplinary issues. It was a reciprocal relationship between the billet family and myself. I was treated like a member of the family.

31. I had a team curfew of 10:30PM that my billet family helped enforce. I believe that this curfew was a great idea – it ensured that players, who were young teenage boys in a city that was not home, were kept out of trouble and kept safe every night.

32. My billet family did everything for me. They cooked fantastic meals and helped me with my school work. My billet mother was a school teacher and always assisted me with my homework if I had questions. Further, my billet family celebrated all my accomplishments as if I was their own son. For example, after one IceDogs game where I scored a hat trick (three goals), my billet family baked me my favourite cake to celebrate my accomplishment. My billet family, along with their extended family (nieces, cousins, aunts, uncles) would all celebrate my birthday together every year. Any time I had a big life moment, my billet family would make sure I felt special and appreciated, like a member of their own family.

33. My own parents also developed a very close relationship with my billet family. We would often have large gatherings over the summer where both families would get together and have dinners, barbeques and small parties. Today, three years after I completed my OHL career and moved out of my billet family's home, I am still in close contact with them. Myself and my family still get together during the summers and we are in frequent contact via telephone and text message. When I left my billet family, they gifted me with a photobook that contained photos

and memories of my five years in the OHL, including moments I shared with the billet family. I cherish these memories and really appreciate everything they did for me.

34. The close relationship between my family, my billet family and the Burkes was very important – I do not believe my own parents would feel comfortable allowing me to join the OHL and move away from home at the age of 16 if it were not for the support of my amazing billet family and the Burkes. The fact that the Burkes were with us on a daily basis, and that they formed a personal relationship with my parents and my billet family, made my family very comfortable in allowing me to move out and live with billets.

COMPARISON OF HOCKEY EXPERIENCES

35. Prior to joining the OHL, while playing in the GTHL, my family had to pay a significant registration fee as well as pay for all my equipment, meals and travel every year. I estimate that my parents paid approximately \$10,000 - \$12,000 per year for me to play in the GTHL. However, once I moved to the OHL, while the time commitments to the game and team remained similar, I was no longer paying to play or paying for any equipment, meals, travel or living expenses. It became a much better experience.

36. As I've discussed, I now play professional hockey in the AHL and have played in the NHL as well. I am now in my fourth professional hockey season.

37. Once I began playing professional hockey, I quickly realized that I was now an employee and was going to a job every day to work. It was instantly a very different mindset than when I was in the OHL. While in the OHL, my mind was focused on becoming a professional, I knew I was not already one. I played in the OHL and had the time of my life – now in the AHL, I am playing hockey to make a living and support myself and my current and future family.

38. Now that I have experienced life in the OHL, AHL and NHL, I can confidently state that I was not treated as an employee, nor did I think I was an employee. The OHL was an amazing developmental experience and I enjoyed the best years of my life playing in that league, developing close relationships and having fun playing hockey as a teenage boy. We were not playing in the OHL because we wanted or needed a job – we were there to take advantage of the great opportunity to become better hockey players.

39. During my first few seasons playing professional hockey, I remember thinking that I wish I was still back in the OHL because it really was the best experience of my life.

CLASS ACTION

40. I understand that Sam Berg, the representative plaintiff in this litigation, is claiming that OHL players are entitled to minimum wage and other employment standards benefits. If the league were to implement minimum wage payments, in lieu of all the other benefits players now receive, I believe the league would be adversely impacted in a very negative way.

41. The removal of OHL benefits dedicated to hockey development, character development and skill development would devalue the league's effectiveness and would impact the talent the league provides to the AHL, NHL and Canadian Interuniversity Sport. This would have a drastic impact on overall hockey development in Canada and even North America.

42. Every player in the OHL likely wants to make it to the NHL. I do not believe players are interested in making money through minimum wage or overtime payments – players want to develop their hockey skills. If current benefits were scaled back in favour of minimum wage, the goals and interests of most OHL players would become significantly more difficult to achieve. For example, less ice time, lower quality equipment and lower end facilities or coaching would hurt the level of training and quality of hockey that OHL players would experience. This would make it much more difficult for players to develop into NHL players. Further, with the creation of an employment relationship, players would lose the very valuable parental and educational support provided by the teams, as well as the support and supervision of the billet families.

43. I would not change a single aspect of my OHL experience. I made unbelievable relationships, developed as a hockey player and developed as a person. I can confidently say that I would not be where I am today without the mentoring, support and overall fantastic experiences I had playing hockey for the IceDogs and the Burkes.

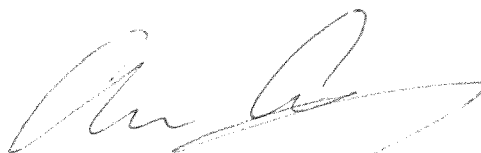
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SWORN BEFORE ME at the City of San
Antonio, in the State of Texas
on November 3, 2015



Commissioner for Taking Affidavits

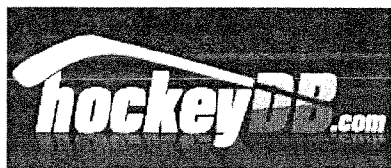
IRFAN KARA



ANDREW AGOZZINO

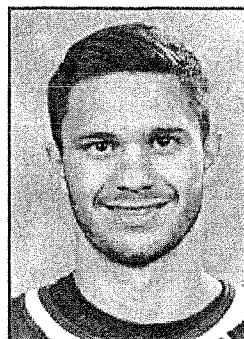


TABA



Andrew Agozzino

Left Wing -- shoots L
 Born Jan 3 1991 -- Kleinburg, ONT
 [24 yrs. ago]
 Height 5.10 -- Weight 187 [178 cm/85 kg]



Season	Team	Lge	Regular Season						Playoffs				
			GP	G	A	Pts	PIM	+/-	GP	G	A	Pts	PIM
2007-08	Niagara IceDogs	OHL	50	12	10	22	47	3	--	--	--	--	--
2008-09	Niagara IceDogs	OHL	67	27	29	56	88	-10	12	6	5	11	24
2009-10	Niagara IceDogs	OHL	66	37	29	66	95	15	5	3	2	5	15
2009-10	Peoria Rivermen	AHL	2	0	0	0	0	1	--	--	--	--	--
2010-11	Niagara IceDogs	OHL	68	43	31	74	73	32	14	6	7	13	19
2011-12	Niagara IceDogs	OHL	67	40	48	88	67	32	20	11	7	18	16
2012-13	Lake Erie Monsters	AHL	76	20	32	52	73	16	--	--	--	--	--
2013-14	Lake Erie Monsters	AHL	75	17	32	49	73	-12	--	--	--	--	--
2014-15	Lake Erie Monsters	AHL	74	30	34	64	55	2	--	--	--	--	--
2014-15	Colorado Avalanche	NHL	1	0	1	1	0	1	--	--	--	--	--
2015-16	San Antonio Rampage	AHL	3	4	3	7	4	3					
	NHL Totals		1	0	1	1	0						

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This is Exhibit A.....referred to in the
 affidavit of Andrew Agozzino
 sworn before me, this 8th.....
 day of NOVEMBER.....20.15
AKK
 A COMMISSIONER FOR TAKING AFFIDAVITS

Proceeding commenced at TORONTO

Lawyers for the Defendants