

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

Clerk's Stamp

COURT FILE NO.

COURT

COURT OF QUEEN'S BENCH OF
ALBERTA

JUDICIAL CENTRE

CALGARY

PLAINTIFF

LUKAS WALTER as
REPRESENTATIVE PLAINTIFF

DEFENDANTS

WESTERN HOCKEY LEAGUE,
CANADIAN HOCKEY LEAGUE,
et al.

DOCUMENT

AFFIDAVIT OF GORDIE BRODA

PARTY FILING THIS
DOCUMENT

DEFENDANT

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Lawyers for the Plaintiff

I, Gordie Broda, of the City of Prince Albert, in the Province of Saskatchewan, MAKE OATH AND SAY:

1. I am the Governor of the Prince Albert Raiders, and have been since May 2014. Between 2010 and May 2014 I served as the Club's Alternate Governor. I am also the Vice-President of the Prince Albert Raiders Board of Directors. I have been a member of the Board for 11 years.
2. In addition to my roles with the Raiders, which are both volunteer positions, I am President of the Broda Group of Companies which offers heavy civil construction services. My father Cas Broda started the companies in 1957. I have been involved for 35 years.
3. My son Joel Broda played in the WHL between 2005 and 2010. He played two seasons in Tri-City, a season and a half in Moose Jaw, and a season and a half in Calgary. Joel now plays professionally in Austria for Bolzano H.C. Prior to playing in Europe, Joel played professionally in the America Hockey League and in the East Coast Hockey League.
4. I have knowledge of the matters to which I depose in this affidavit.

Overview

5. In this affidavit, I provide evidence on the following matters:
 - (a) ***Ownership Structure of the Prince Albert Raiders:*** I provide background information on the Raiders' community ownership structure.

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- (b) *Player Experience with the Team:* I provide an overview of the player experience in Prince Albert and discuss the variability that exists for players in terms of their academic commitments, involvement in community engagement activities, hockey development and training, their involvement with their billet families, and other aspects of their development and training.
- (c) *Financial Success of the Team:* I discuss the team's finances and the financial difficulties that the team has experienced over the years that I have been involved as Governor. I also outline the consequences for the team if the team were required to pay players minimum wages.
- (d) *My Son Joel's Experiences in the WHL:* I discuss our family's experiences with the league.

The Prince Albert Raiders

Ownership Structure of the Raiders

- 6. The team has been owned by a group of community members since September 1971 when the team was founded.
- 7. There are currently 515 community member owners, many of whom have been part of the membership group since the beginning. For the Prince Albert community, and particularly for the community members that have been involved with the team since its founding, the Raiders are an important fixture of the City. In a community of approximately 38,000, the team is a source of pride and entertainment for many residents. Despite the importance that the Raiders play for their community, the city of Prince Albert does not provide any financial assistance or guarantees to the team.
- 8. The team is organized as a non-profit corporation. The current membership fees are \$50/year or \$500 as a one-time donation.
- 9. There are no equity rights associated with the memberships. Members have the right to vote at the annual AGM where eight out of 12 of the board members are elected. The remaining director positions are appointed by the board in an attempt to ensure a diverse representation including members from communities on the outskirts of PA and with certain skill sets such as

accountants, lawyers, and business people. The board selects the President, Vice-President, and Treasurer. The board also appoints the team's General Manager, who then makes the other hockey-related decisions.

10. None of the board members receive any financial benefits associated with their role with the team. These positions are voluntary.

11. I sit on the Board of Directors and act as Governor for the Raiders, because I am committed to the WHL's development programs and to maintaining a solid bond between the Raiders and the City of Prince Albert.

The Art Hauser Centre

12. The team plays at the Art Hauser Centre, which was built in 1971. The City owns the arena and charges the Raiders rent.

13. The arena has a seating capacity of 2,580 but during the playoffs there are three standing room rows that are added which take the capacity up to 3,299. In most years that the team makes the playoffs, the capacity is full with 3,200 fans (which represents about a tenth of the Prince Albert population).

14. The team has contributed to a few modest improvements to the arena since 1971. For example, during the 2005 "Bring Back the Magic" fundraiser the team funded an expansion to the lobby area, an event room was added, the arena seating was upgraded, improvements were made to visiting team's locker room and the team's weight room was updated. Despite these modest upgrades, for the most part the building is in its original state.

15. Through Joel's experiences in the WHL and my involvement with the Raiders, I have seen most of the other WHL arenas. The Art Hauser Centre is one of the oldest - if not the oldest - arena that is still being used in the League. Most of the other teams have spent money in recent years adding technology and top of the line fitness and work out equipment to their locker rooms. The Raiders have not yet been able to afford to do so.

16. Although the Art Hauser Centre is older and more modest than most of the other arenas in the League, the energy in the building is quite special. Because the team is able to sell out

many of its games as a result of the arena's capacity, the experience of playing in the Art Hauser centre is unique and the players seem to really enjoy it.

My Family's Experiences with the WHL

17. Joel was drafted in the Bantam Draft by Tri-City. From my perspective and based on my discussions with Joel, his experience in the WHL was nothing but positive. He enjoyed his time with each of Tri-City, Moose Jaw and Calgary.

18. In my view, there was nothing atypical about Joel's time in the WHL. He was able, through hard work and assistance from his educational advisors to balance his high school studies with hockey; he participated fully in his teams community activities; and he received top training and development.

Player Experience with the Prince Albert Raiders

19. The team's philosophy is that it promises all of its players that they will be provided with the best possible development experiences in a supportive and safe environment. The team provides players with the most competitive hockey development experience it can for amateur athletes while recognizing that many players will not sign professional contracts and therefore should have a strong plan to fall back on. In many cases, the fall back plan relates to a form of post-secondary education which is paid for through the WHL Scholarship program.

20. The Raiders require that all parents of all players (regardless of their age) sign the Standard Player Agreement before they can play with the team. From the team's perspective, it is making commitments to all parents as well as to the players, and therefore the parents need to be a party to the agreement. It has also been the team's experience that almost all parents are heavily involved in their son's decision to play with the team. When Joel first decided to go to Tri-City, I was certainly involved in the decision and had I not been comfortable with the team's commitment to providing him with discipline and structure, I would not have permitted him to play with the Americans.

21. In this section of my affidavit, I outline the various aspects of the player experience with the Raiders, including the player's experience with:

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- (a) education;
- (b) community involvement;
- (c) hockey development and training;
- (d) home life with their billet family; and
- (e) discipline.

Education and Schooling

22. In the past, the Raiders have had a 100% graduation rate from high school, for players who were eligible to attend. I do not recall any examples of a player not being able to complete high school while he played with the team. In fact, many players excel in their high school courses. There are also often a few players every year who join the team and are able to improve their grades, because the educational supports and structure that the team provided are more rigorous than what they had at home when they were playing Midget or Bantam hockey.

23. All of the high school players attend Carlton High School which is right across the street from the arena.

24. The team has as Education Advisor and two tutors that it engages regularly for one-on-one sessions for players who need the help. All tutoring fees are paid for by the team. The coaches and the General Manager receive monthly updates from the Education Advisor and receive each player's report card. As a result, the tutors are engaged as soon as there is any indication that a player needs help which is considered week to week. The tutors have personal relationships with the players' high school teachers, so they are well attuned to the players' courses and curriculums.

25. In addition to the one-on-one tutoring sessions that the team organizes, the team also holds a mandatory study hall every Monday night. The team engages a teaching assistant who attends study halls. The study halls are held at the arena after dinner and are mandatory for all high school players and any players taking post-secondary courses. When it is exam season, the team organizes the players into different study groups depending on their grade-level and abilities. These groups have tutors assigned to them to help them study for specific exams.

26. The team's commitment to education has translated into success for many of the players. At the end of the 2014-2015 season, Nick McBride was awarded the 2014-2015 WHL Scholastic Player of the Year award. When Nick received the award it was the second time in three years that a Raiders player had won WHL Scholastic Player of the Year. The team has also received the WHL Scholastic Team of the Year award three times.

Community Involvement

27. The Prince Albert Raiders are committed to maintaining a positive relationship with the community and do so, in part, by volunteering in a variety of ways through community events and activities. Because the community has been a loyal supporter of the team, the Raiders have a strong sense of loyalty to their fans and a deep historical connection to the City.

28. Through the community events, the team also aims to instill values of good citizenship and gratitude in the players. These events also help the boys to mature as many of the events involve them acting as role models for younger hockey players or school-aged children. The players also learn leadership skills which help to build their confidence.

29. Another important value the team embraces is acceptance. The team encourages players to learn about different cultures both at home and on the road.

30. The team is proud of its commitment to community service and it is a feature of the team's recruitment efforts, because parents are attracted to the program. During recruitment, parents tell the coaches and General Manager that they are enthusiastic about this aspect of the program, because if their sons were not playing in the League they would not be given these opportunities.

31. I saw the benefits Joel obtained from the community service that he did while he played in the WHL. The lessons that he learned will help him succeed in life. He developed a sense of confidence, leadership skills, and maturity as well as goodwill and respect for his community and fans.

32. Each player attends 10 to 12 events per year. The events include "Read with Raiders" at the local library, school visits where the players talk to assemblies or groups of students about

positive life decisions and anti-bullying, as well as visits to local hospitals and seniors home. The players also participate in “Stay on Side” which is a project run by “the Odd Squad”, a non-profit society created by a group of Vancouver police officers. Through this project, players have the opportunity to accompany Vancouver police officers to Vancouver’s downtown eastside neighborhood to witness the effects of chronic substance abuse. After receiving education on the drug culture and effects of substance abuse, the players return to Prince Albert to attend local schools to speak at assemblies and presentations about their experiences in Vancouver in an attempt to prevent future drug abuse.

33. One of the team’s staff members is responsible for putting together a schedule that includes all players. There is an attempt to evenly distribute the appearances across the team. The team has never encountered a player who did not want to participate or who voiced object about attending an event.

34. In recognition of the team’s community involvement, the team has twice won the Samuel McLeod Business Award for community involvement. The Award is given by the Prince Albert & District Chamber of Commerce to recognize organizations’ support and engagement in community volunteer work.

Hockey Development and Training

35. The team is committed to hiring the best coaches and trainers that it can. These hiring decisions are fundamental to the team being able to compete with the other WHL teams. Players and parents are also conscious of these hiring choices and place a lot of emphasis on who the coaches are during recruitment.

36. The team has played in the playoffs about every other year on average, and this year is enjoying a strong performance.

37. ***Non-game days.*** Check-in at the arena for the graduate players is every day at 9am. This provides the players with structure and helps to make sure they are getting to bed on time. The graduate players either have a scheduled workout, community service activity or a video session in the morning which usually lasts until around 10:45am. They are then free until the whole team arrives at the arena for practice around 12:15pm.

38. The high school players attend school in the morning, which is right across the street from the arena. They eat lunch, either at their billets or they eat a packed lunch prepared by their billets, and then arrive at the arena with the rest of the team at 12:15pm for practice.

39. The team's daily practices are held at 1pm. The team has ice time until 3pm, but the practices usually only last about an hour. The rest of the ice time is used for individual or group development. After practice, the graduate players are free to go and the high school players either have a workout, stretch, or video session. If the graduate players had a community service event in the morning, they will join the high school players' afternoon session.

40. The players almost never have anything scheduled after 4pm or so. They use the afternoon and evening to do their homework, spend time with each other or their billet families, or occasionally attend a community service event. The players also love spending time at the arena and hanging out with each other, so they often stick around well after the day officially ends. Some players play ping pong or bubble hockey and others do homework or just hang out.

41. **Game Days.** The graduate players arrive at 9:15am for a pre-game skate beginning at 10am. There are many players who do not use the ice at this time particularly if the team played the night before. Instead, the pre-game skate focuses on giving any injured players ice time and attention from the coaches and it allows time for any players who need special attention to focus on a particular skill or drill. The length of the pre-game skate varies quite a bit depending on the player. This practice also varies considerably depending on the coach. For example, the team's previous head coach did not believe in pre-game skates and therefore the team never held these sessions.

42. After the ice-time, the graduate players watch video or they might stretch with the team's trainers. They are then free to go for the day usually by about 11am. High school players attend a game day meeting at 12:15pm after school and are then free for the rest of the afternoon. All players are required to come back to the arena around 4:30pm for a team meeting at 5pm. The games almost always start at 7pm when they are played at home.

43. After the game, the players are encouraged to properly hydrate and stretch. The team has a nutritionist on staff, so players are taught about the importance of properly re-fuelling after

games. In most cases, the players leave the arena by 10pm to go home to their billets where they eat dinner.

44. *Away Games and Road Trips.* The team rents a bus that it uses to drive players to all away games. The bus is equipped with internet and power sources, so players can use their computers to do homework. The team also sets time aside on all road trips for team building. In most cities that the team visits, players are given an opportunity to attend local museums and other important landmarks.

45. An example of an away game in Swift Current would involve a departure on the team bus around noon. Players help to pack the bus at 11am and the team stops to eat lunch on the way. The meals provided to the players focus on nutrition, and the team does not stop for fast food but has players sit down at a restaurant to eat. The game would be played at 7pm, and the team would then stay overnight in a hotel. All meals and hotel expenses are paid for by the team.

46. Once a season, the team has a two-week long road trip where it drives out to British Columbia and the US. Last year, the trip was held in December, 2014 and the team travelled to British Columbia. The team travels on a high-end coach bus that is rented each season. The players sleep on the bus, do homework, and relax with their friends, so they all seem to enjoy the bus time.

Home Life with the Billet Family

47. The players are billeted with local families many of whom have acted as billets for the Raiders for several years. The team plays an active role in selecting billet families and reviewing the existing billets to make sure they are providing the players with the appropriate level of supervision, care, and support. The team also organizes the billet assignments to make sure that each player is matched with a billet family that will be able to support his particular interests and circumstances.

48. The team pays each billet family \$350 per month per player as well as a pair of seasons tickets. This amount covers the groceries and other items that the billets will need to buy to care for the players. The players are not expected or required to contribute anything to their billets' homes. I have never heard of a player who needed to borrow money from his parents in order to

cover amounts for his food or living expenses. Some players spend money on going out to eat, to the movies or other recreational activities, and these amounts are not covered by the team or the billets. Players also spend money on their cell phones. However, apart from these items, I am not aware of any other amounts that players are required to spend while they are in Prince Albert with the team.

49. Once a year the team holds a parent-billet weekend where the team hosts the players' billets host the players' parents at their homes. This weekend is a nice tradition, because the players' parents have an opportunity to spend some time with the players' billets and the team's staff. The parents are also recognizes at the game that weekend.

Discipline

50. The team agrees to act as guardians for the players when they move to Prince Albert, often from hundreds of kilometres away, to play with the Raiders. The team makes commitments to the players' parents that when their son comes to play with the Raiders his education will be ensured, he will live with a caring billet family, and he will be safe, supervised and supported. As a father of a former player, I understand that these commitments are what parents expect from the Raiders.

51. Parents expect that the team will impose rules, discipline, and control on their sons, and the coaches recognize this expectation which has become an important element of the Prince Albert Program. The team therefore uses this focus on discipline and structure when recruiting players, because it has proven to be particularly useful.

52. In general, it is also my experience that players are better able to succeed at school and with their hockey development in a controlled and structured environment. In Joel's case that was certainly true, and I have seen the same phenomenon with many Raiders players. As a result, the team also imposes discipline and rules on the players to make sure that the team is giving the players the best possible chances of success.

53. Part of the WHL experience and the Prince Albert Program focuses on character development. Teaching players to live away from home while maintaining responsibility for their school work and hockey development helps to shape the boys into independent and

responsible young men. The team has recently created a focus on rules, respect and discipline, and I am proud to see the success of this aspect of the program manifest itself into the players' development.

54. There is a nightly 10pm curfew that is strictly imposed on all players as well as a requirement that the graduate players must check in at the arena every morning at 9am. A player that is late for curfew, checkin, or school will be disciplined to some extent. The level of discipline imposed on players is the same for all players regardless of their skill level. The most severe discipline would be forcing a player to sit out of a game.

55. Joel played in the Prince Albert Minor Hockey AA League (Bantam) and the Saskatchewan AAA Midget League before he played in the WHL, and his teams during his Bantam and Midget years also imposed strict rules on the players. Every team that Joel played with from the time that he played Pee Wee at age 6 has required that players arrive on time for, and that they attend, all practices and games. Similarly, all of the teams that he has played on have imposed rules on the players relating to on-ice as well as off-ice conduct. All of his coaches have expected and required that he be respectful of his teammates, his opponents and his coaches, and that he follow whatever rules are in place.

Finances of the Team

56. As a non-profit organization, the team's goal is to break-even every year. However, the team usually only breaks even when the team makes the playoffs and when the Memorial Cup is hosted by a WHL team and/or the World Juniors are held in Canada. In most years if the team does not make the playoffs the team operates at a loss. Even though the team made the playoffs during the 2013-2014 season, the team incurred a loss of approximately \$210,000.00.

57. Historically, the team has had three separate funds: an operating fund, an education fund, and a capital fund. The operating fund is used for day-to-day expenses, the education fund is used to pay for the team's WHL Scholarship commitments, and the capital fund is used for capital improvements. This year, the team plans to wind the capital fund up into the operating fund.

58. At the end of the 2013-2014 season, the team's operating fund was at a deficit of \$394,819.00. In addition to the team's operating losses that year, the team had a deficit balance in the fund going into the year.

59. The team funds its education fund through the sale of 50/50 tickets at games, the sale of Nevada tickets at games, and the sale of game worn jerseys and other fundraising initiatives held by the Board of Directors. During my time with the team, the players have never been required to fundraise for the education fund. Nor did any of the teams that Joel played with require him to fundraise for the WHL Scholarship.

Operating Fund - Sources of Revenue

60. In terms of revenue, the team's greatest revenue sources are its advertising revenues and ticket revenues. The average ticket price to attend a Raiders game is around \$12 or \$13. The average attendance for Raiders' games is approximately 2,350. The team generated \$962,300.34 in revenue from ticket sales during the 2013-2014 season.

The Team's Expenses

61. On the expense side, some of the team's greatest expenses include the cost of the players' hockey equipment which was approximately \$110,000.00 during the 2013-2014 season as well as the game expenses and the cost of the ice-rental for practices and games which was approximately \$150,000.00 during the 2013-2014 season. The team also paid \$425,000.00 in respect of hockey salaries which included salaries for the team's general manager and assistant general manager, all coaches, trainers and medical personnel.

62. Each player on the Raiders' roster represents a cost of approximately \$47,366.00 which includes the cost of hockey equipment as well as the player's proportionate cost of the team's other hockey-related expenses, including hockey salaries for the team's coaches, trainers, ice-time, billet payments, travel, meals, medical supplies, players' education costs (not including scholarship payments to Graduate players), and the players' expense reimbursements. This amount does not include any amount for scouting.

63. The team has relatively lower game-day costs than many other WHL teams, because all of the game day staff, including ticket collectors, ushers, and concessions staff are volunteers.

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The Raiders value their volunteers and have never had any difficulty in attracting community members to take on these volunteer positions. In fact, most years, there are too many people who volunteer for the positions than there are positions.

Consequence of Paying Minimum Wage

64. If the team were required to pay current and former players minimum wage, the ramifications would be significant. The team is already running as lean as it can in order to remain competitive in the League, so it would create an unsustainable model if the team were required to pay retroactive wages or wages going forward to players.

65. The only way the team would be able to pay either retroactive wages or wages going forward would be to dilute the other supports that the team provides to the players. It would be very difficult for the team to be able to make these reductions while remaining competitive in the League, because the team already has a tough time recruiting players to Prince Albert. In my opinion, reducing the amounts provided to players as well as the costs spent on coaching and trainers, which is what would need to happen for the team to pay retroactive wages or wages going forward to players, would be devastating from a recruitment perspective. Without being able to attract top players to Prince Albert, the team would eventually become uncompetitive and would likely have to leave the League.

SWORN BEFORE ME at Prince Albert
in the Province of Saskatchewan
on Dec 18, 2015



Commissioner for Taking Affidavits
(or as may be)

Barry E. Wilcox, Q.C.
(Print Name and Expiry of Lawyer/Student-at-Law/Commissioner) Notary Public
Being a lawyer.



(Signature of deponent)

Gordie Brode
(Print Name)