

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.	1401-11912
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 SHERRY PYSYK
PARTY FILING THIS DOCUMENT	DEFENDANT

Brought under the *Class Proceedings Act, 1992*

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Lawyers for the Plaintiff

I, Sherry Pysyk, of the City of Sherwood Park, in the Province of Alberta, MAKE OATH
AND SAY:

1. My son, Mark Pysyk, played in the WHL with the Edmonton Oil Kings for five seasons between 2007 and 2012. Our family also acted as billets for one of his teammates during that time.
2. I have knowledge of the matters to which I depose in this affidavit, except where I state below that I have relied upon information from another source, in which case I indicate the source of my information and I believe the information to be true.

Mark's Amateur Hockey Experiences prior to the WHL

3. Mark started playing hockey in Edmonton in a minor hockey league when he was six years old. Our family moved to Sherwood Park, which is a suburb outside of Edmonton, when Mark was eight. After we moved, Mark played minor hockey in Strathcona County, Alberta and later in Sherwood Park, Alberta.
4. After Mark was selected by the Oil Kings, but before our family decided that he could play with the team, Mark played one game of his 15 year old season with the Sherwood Park AJHL team. As I discuss below, he also played a few games with the Oil Kings that year.
5. During Mark's Bantam and Midget years he played on a AAA team in a rural Alberta league. There were league and team fees for each of these years and none of Mark's protective equipment was provided by the team. Our family therefore paid for Mark's equipment, skates, sticks, league registration entry fees, and his team fees during his Bantam and Midget seasons. During Mark's Bantam year, we paid approximately \$600 in registration fees and around \$800 to

\$900 for his equipment. In Mark's Midget year, we paid approximately \$2,000 in registration fees and around \$800 to \$900 for his equipment.

6. Mark's teams played approximately 30 games during the regular season, and the away games were often several hours away. Most of the away games were held on the weekends, and the players would travel to the games on a bus that the team rented. Parents were able to go on the bus with the players, and my husband Terry and I attended most games. Whenever the team stayed overnight after a game, my husband and I paid for Mark's hotel room. We also paid for all of Mark's food on road trips and the teams did not provide any after game meals or other food to the players.

7. Mark practiced with his Bantam and Midget teams two or three times a week after school and in the evenings, and the team also held a mandatory off-ice training session once a week. The team's training sessions were in addition to the private fitness sessions that Terry and I paid for. The team also sometimes played home games during the week. As a condition of playing with the teams, Mark was required to attend all games and practices, so Mark had hockey commitments about six days a week.

Mark's Amateur Hockey Experiences in the WHL

8. Mark played hockey with the Edmonton Oil Kings for five seasons from the time he was 16 years old to when he was 20 years old. He lived at home for each season, and our family billeted one of his teammates. Although he lived at home, Mark learned a lot about independence and maturity through playing with the Oil Kings. He also developed his leadership skills and participated in many community service events and volunteer activities. The sense of giving back to the community that Mark learned in the League has stuck with him today, and he continues to be involved with a variety of volunteer activities.

Decision to Play with the Oil Kings

9. Mark was the first player drafted by the Oil Kings. At the time he was drafted he was 15 years old, and our family had a lot of questions and concerns about what it would be like for Mark to play with the team. My husband Terry was a junior high and high school teacher and an assistant principal for 34 years. He was very concerned about Mark's ability to play in the WHL and maintain his grades and educational opportunities. Terry had discussions with the team's

General Manager Bob Green about this issue, and Bob explained that the team would have an Education Advisor who would liaise with the high school to coordinate Mark's education and hockey schedules. Bob also told Terry about the team's tutoring and study hall programs, which were unlike anything any of the other teams that Mark had played with had. We were also assured that Mark's education would be prioritized, so if he fell behind in school or missed classes, he would be required to sit out from practices or games until he changed his behaviour.

10. Apart from Mark's ability to keep up at school, I was concerned about the level of supervision and discipline that the team would impose. Because Mark would be travelling so much with the team and spending so much time at the arena, I wanted to be comfortable that the team would provide him with the structure and rules that would keep him safe.

11. I spoke with many parents of former players, who all told me that Mark would be well cared for if he played in the WHL. The experiences described to me sounded like the teams acted as guardians for the players and that they took their guardianship roles very seriously. I also spoke with Bob Green and with Bob McGill, the head scout, who told me that the team would have strict rules that the players would be required to follow and that they would supervise and care for Mark as if he were their son.

12. Ultimately, our family's concerns were addressed by the team, and Terry and I agreed that Mark could play with the Oil Kings. Mark played a few games as a 15 year old during the year that he played on the Sherwood Park Midget AAA team. Terry and I were happy with the time he spent with the team as a 15 year old, so we agreed that Mark could sign a Standard Player Agreement with the Oil Kings shortly after the 2007-2008 season ended. Terry also signed the SPA, because Mark was 15 at the time and because it was our understanding that the team was making certain promises to us as well as to Mark.

13. When Mark and Terry signed the SPA, we understood that Mark was agreeing to play with the Oil Kings, that he was committing to an intense travel schedule with 72 games during the regular season, and that the team was promising to take care of Mark and act as his guardian while he was in the team's care. Signing the SPA also provided Mark with access to the WHL Scholarship. This was attractive to us because it was fully guaranteed regardless of whether or not Mark got injured while playing with the team and regardless of where Mark decided to go to

school. It also offered Mark up to five years of tuition fees and books. In signing the SPA, our family did not think that Mark was entering into an employment relationship with the Oil Kings or that he was an employee of the team.

14. We knew that Mark was competitive enough to get a scholarship with an NCAA school. By the time Mark was drafted by the Oil Kings, he had already received a few calls from US colleges. However, it was our understanding that the NCAA scholarships were not as flexible as the WHL Scholarship. We had also heard that Mark would be more likely to be drafted into the NHL sooner if he played in the WHL rather than at a US college.

15. Neither Terry, Mark, nor myself thought that we were signing Mark up for a job when he signed the Edmonton Oil Kings SPA. We knew that he would have some of his expenses reimbursed by playing with the team, but we weren't concerned about money or Mark getting paid. Instead, we wanted Mark to have the best chance of being drafted into the NHL, but we also wanted him to have a back-up plan for school if he didn't end up getting drafted. We all thought that Mark was lucky to be given the opportunity to play in the WHL where his chances of being drafted were highest and where he would be given access to a flexible scholarship and educational supports.

Mark's Experiences Playing with the Oil Kings

16. Mark excelled during his time with the Oil Kings. He successfully completed high school and was able to achieve strong grades. He was also the team's captain for the 2010-2011 and 2011-2012 seasons. His hockey skills improved tremendously, and he was drafted in the first round by the NHL in 2010. In addition, over the years that he played with the Oil Kings, he grew up and became an independent and responsible young adult. His maturity was developed in part as a result of the many road trips the team took as well as the balance that he developed between his demanding hockey schedule and his commitments to school and to volunteer activities.

17. His coaches along with the team's Education Advisor Roger Castle and the team's General Manager Bob Green acted as positive role models for Mark, and spent a lot of time supporting him along the way. Even though Mark lived with us, he benefited from having such supportive and caring coaches. The level of guidance and support offered by the Oil Kings was unlike what had been provided by any other team that Mark played with up to that point in time.

18. *Education.* Mark attended Salisbury Composite High School in Sherwood Park, which was the same high school as his team mates. The team's Education Advisor was Roger Castle, who was a former high school teacher from the Sherwood Park area. He did an excellent job of setting up study halls for the players once or twice a week as well as organizing study time on the road. Roger also made arrangements for players who needed tutoring, but Mark did well in school and never needed help from a tutor.

19. Mark's experiences with the Oil Kings from a schooling perspective were vastly different from the experience that he had with his Bantam and Midget teams. None of his former teams offered any educational supports and players were expected to simply manage the balancing act on their own.

20. One activity that Roger set up that Mark really benefitted from was the public speaking classes that he held each year. All of the Oil Kings players attended the classes, and at the end of the season, Roger set up presentations for the players to deliver speeches they had written to other players and all of the parents. Taking this public speaking course helped to give Mark confidence and taught him how to present his ideas and speak to groups. He has relied on these skills in his professional hockey career quite a bit.

21. *Community Events.* The team had a strong commitment to community service, and Mark embraced this part of the program. Mark participated in hospital visits, park clean-ups, and school reading programs. While his Bantam team did about two or three volunteer events, none of the teams that Mark had previously played with did any significant community service work. I am glad that Mark had the opportunity to learn about the importance of investing in one's community and being grateful for his fans.

Our Family's Experience as Billets

22. When Mark was drafted by the Oil Kings, we didn't know anything about the WHL billeting program, because the Oil Kings were new to Edmonton. We decided to volunteer to act as a billet family to help the team and to help to make safe and comfortable homes for the players. I wanted to give back to the team, and I thought about what I would want out of a billet family if Mark had been drafted by an out of town team. During the time that we acted as billets, I was the liaison with the team's billet coordinator. The team provided a list of information to all

billeting. The information dealt with health and nutrition, including information on making sure the boys were properly fed and were getting enough sleep, as well as the team's rules for curfew, respect, and visitors.

23. The first year that we billeted a player was during Mark's second full season with the Oil Kings. Our billet was Robin Soudek who came from the Czech Republic to play in Edmonton. Robin and Mark were friends and got along quite well. We did everything that we could to try to make Robin feel like he was part of our family. We took him everywhere we went as a family whether we were going to relatives' homes, out to dinner, or to parties or celebrations.

24. I looked after and cared for Robin the same way that I did for Mark. I made them their lunches together, I did their laundry, tidied their rooms, and talked to them about their school work and goals. We often ate dinner as a family which was a nice time for us to hear about some of the challenges that the boys faced. Our daughter also became friends with Robin, and she introduced him to many of her friends.

25. When Robin moved in with us, he was struggling a bit with his English. Terry and I spent time working with Robin on his English, and he became fluent very quickly. He also took English classes that the team coordinated for him, and he participated in Roger's public speaking course. Since Robin's parents weren't able to attend his presentation at the end of the public speaking course, Terry and I went to support him.

26. We also enforced the same rules with Robin as we did with Mark. The team had a strict 11pm curfew, and we loved the team curfew, because we would have enforced one with Mark and Robin even if there was no team curfew. The fact the team had a curfew allowed us to put responsibility for the rule on the team. Someone from the team (either a coach or the billet coordinator) would call sporadically and ask to speak with Mark or Robin to make sure they were meeting their curfews. As I mentioned above, there were a list of other rules that the team required us to enforce, including that the players could not have girls over to the house after dinner. We were also thankful that this rule was in place, because it made sure the boys focused on their school work and got to bed on time.

27. While we were billeting Robin, I was in touch with Robin's sister, who was more fluent in English than his parents, on a regular basis throughout the season. I would call them to let

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them know if he wasn't feeling well or to give them updates on what the boys were doing with the team. After the boys came home from road trips, I was always sure to call Robin's parents to let them know they had arrived safely. Terry and I are still in good touch with Robin's parents, and we stayed with them on a recent trip that we took to the Czech Republic.

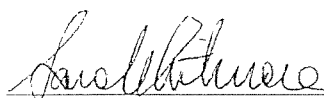
28. We made sure that Robin had everything he needed to be comfortable in our home and that he always had enough to eat. The team paid us \$300 a month to cover our costs in this regard.

Mark's Professional Hockey Career since Graduating from the WHL

29. Mark signed a contract with the Buffalo Sabres in 2010 when he was 18. After signing with the Sabres and attending the Sabres training camp, Mark played another two seasons with the Oil Kings.

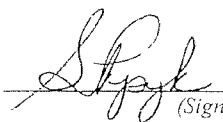
30. Since graduating from the Oil Kings, Mark has played a few seasons with the Rochester Americans and has now played with the Sabres consistently for two of the past three seasons. Mark was ready to play professional hockey, because the Oil Kings had done so much to help prepare him. He started his time with the WHL as a boy who was a very talented hockey player. He graduated from the League with improved hockey skills and a new found character and maturity.

SWORN BEFORE ME at Edmonton
in the Province of Alberta
on 12 November, 2015



Commissioner for Taking Affidavits
(or as may be)

Sarah Whitmore



(Signature of deponent)