

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

DANIEL CARCILLO and GARRETT TAYLOR

Plaintiffs

- and -

ONTARIO MAJOR JUNIOR HOCKEY LEAGUE, CANADIAN HOCKEY LEAGUE, WESTERN HOCKEY LEAGUE, QUEBEC MAJOR JUNIOR HOCKEY LEAGUE, BARRIE COLTS JUNIOR HOCKEY LTD., GUELPH STORM LTD., HAMILTON BULLDOGS FOUNDATION INC., KINGSTON FRONTENACS HOCKEY LTD., KITCHENER RANGERS JR. A. HOCKEY CLUB, LONDON KNIGHTS HOCKEY INC., MISSISSAUGA STEELHEADS HOCKEY CLUB INC., 2325224 ONTARIO INC. o/a MISSISSAUGA STEELHEADS, NIAGARA ICEDOGS HOCKEY CLUB INC., NORTHBAY BATTALION HOCKEY CLUB LTD., OSHAWA GENERALS HOCKEY ACADEMY LTD., OTTAWA 67'S LIMITED PARTNERSHIP c.o.b. OTTAWA 67S HOCKEY CLUB, THE OWEN SOUND ATTACK INC., PETERBOROUGH PETES LIMITED, 649643 ONTARIO INC. o/a 211 SSHC CANADA ULC o/a SARNIA STING HOCKEY CLUB, SOO GREYHOUNDS INC., SUDBURY WOLVES HOCKEY CLUB LTD., WINDSOR SPITFIRES INC., MCCRIMMON HOLDINGS, LTD., 32155 MANITOBA LTD., A PARTNERSHIP c.o.b. as BRANDON WHEAT KINGS, BRANDON WHEAT KINGS LIMITED PARTNERSHIP, CALGARY FLAMES LIMITED PARTNERSHIP, CALGARY SPORTS AND ENTERTAINMENT CORPORATION, EDMONTON MAJOR JUNIOR HOCKEY CORPORATION, KAMLOOPS BLAZERS HOCKEY CLUB, INC., KAMLOOPS BLAZERS HOLDINGS LTD., KELOWNA ROCKETS HOCKEY ENTERPRISES LTD., PRINCE ALBERT RAIDERS HOCKEY CLUB INC., EDGEPRO SPORTS & ENTERTAINMENT LTD., QUEEN CITY SPORTS & ENTERTAINMENT GROUP LTD., BRAKEN HOLDINGS LTD., REBELS SPORTS LTD., SASKATOON BLADES HOCKEY CLUB LTD., VANCOUVER JUNIOR HOCKEY LIMITED PARTNERSHIP and VANCOUVER JUNIOR HOCKEY PARTNERSHIP, LTD c.o.b. VANCOUVER GIANTS, WEST COAST HOCKEY LLP, WEST COAST HOCKEY ENTERPRISES LTD., o/a VICTORIA ROYALS, MEDICINE HAT TIGERS HOCKEY CLUB LTD., 1091956 ALTA LTD. o/a THE MEDICINE HAT TIGERS, SWIFT CURRENT TIER 1 FRANCHISE INC. and SWIFT CURRENT BRONCOS HOCKEY CLUB INC. o/a SWIFT CURRENT, ICE SPORTS & ENTERTAINMENT INC.

-2-

o/a WINNIPEG ICE, MOOSE JAW TIER 1 HOCKEY INC. D.B.A. MOOSE JAW and MOOSE JAW WARRIORS TIER 1 HOCKEY, INC. WARRIORS o/a MOOSE JAW WARRIORS, LETHBRIDGE HURRICANES HOCKEY CLUB, 649643 ONTARIO INC. c.o.b. as SARNIA STING, KITCHENER RANGER JR A HOCKEY CLUB and KITCHENER RANGERS JR "A" HOCKEY CLUB, LE TITAN ACADIE BATHURST (2013) INC., CLUB DE HOCKEY JUNIOR MAJEUR DE BAIE-COMEAU INC. o/a DRAKKAR BAIE-COMEAU, CLUB DE HOCKEY DRUMMOND INC. o/a VOLTIGEURS DRUMMONDVILLE, CAPE BRETON MAJOR JUNIOR HOCKEY CLUB LIMITED o/a SCREAMING EAGLES CAPE BRETON, LES OLYMPIQUES DE GATINEAU INC., HALIFAX MOOSEHEADS HOCKEY CLUB INC., CLUB HOCKEY LES REMPARTS DE QUEBEC INC., LE CLUB DE HOCKEY JUNIOR ARMADA INC., MONCTON WILDCATS HOCKEY CLUB LIMITED, LE CLUB DE HOCKEY L'OCEANIC DE RIMOUSKI INC., LES HUSKIES DE ROUYN-NORANDA INC., 8515182 CANADA INC. c.o.b. CHARLOTTETOWN ISLANDERS, LES TIGRES DE VICTORIAVILLE (1991) INC., SAINT JOHN MAJOR JUNIOR HOCKEY CLUB LIMITED, CLUB DE HOCKEY SHAWINIGAN INC. o/a CATARACTES SHAWNIGAN, CLUB DE HOCKEY JUNIOR MAJEUR VAL D'OR INC. o/a VAL D'OR FOREURS, 7759983 CANADA INC. c.o.b. AS CLUB DE HOCKEY LE PHOENIX, 9264-8849 QUEBEC INC. c.o.b. as GROUPE SAGS 7-96 AND LES SAGUENEENS, JAW HOCKEY ENTERPRISES LP c.o.b. ERIE OTTERS, IMS HOCKEY c.o.b. FLINT FIREBIRDS, SAGINAW HOCKEY CLUB, L.L.C., EHT, INC., ~~JOHN DOE CORP. A o/a EVERETT SILVERTIPS HOCKEY CLUB~~, WINTERHAWKS JUNIOR HOCKEY LLC, PORTLAND WINTER HAWKS INC., THUNDERBIRDS HOCKEY ENTERPRISES, L.L.C., ~~JOHN DOE CORP. B. o/a SEATTLE THUNDERBIRDS~~, BRETT SPORTS & ENTERTAINMENT, INC., HAT TRICK, INC., ~~JOHN DOE CORP. C o/a SPOKANE CHIEFS~~, TRI-CITY AMERICANS HOCKEY LLC, and TOP SHELF ENTERTAINMENT, INC. and ~~JOHN DOE CORP. D o/a TRI CITY AMERICANS~~

Defendants

Proceeding under the *Class Proceedings Act, 1992*

AFFIDAVIT OF DAN MACKENZIE
(Sworn October 29, 2021)

-3-

I, Dan MacKenzie, of the City of Guelph, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the President of the Canadian Hockey League (the **CHL**). I have served as President of the CHL since September 2019. In my role as President, I oversee all of the CHL's operations.

2. Before this role, I worked with National Basketball Association Canada (**NBA Canada**) and The Sports Network (**TSN**). I began working with NBA Canada in 1998 as an Event and Development Manager until October 2003, when I became the Senior Marketing Manager with TSN. I returned to NBA Canada in October 2004 as Director of Marketing until I was promoted to General Manager in 2006, and Managing Director in 2011. I was appointed Vice-President and Managing Director of NBA Canada in 2014, and served in this capacity until I became CHL President in 2019.

3. I know about the matters in this affidavit. If I have made statements of my information and belief, the source of the information and the fact of the belief are specified in this affidavit.

I. Overview

4. In this affidavit, I provide evidence on these matters:

(a) ***Background on the CHL:*** I provide background evidence on the CHL, including its structure and its constituent teams.

(b) ***Roles and responsibilities of CHL President:*** I outline my role and responsibilities as President of the CHL.

- (c) *The CHL's policies and programs on player safety:* I describe the structure of responsibility for the creation and implementation of policies and programs related to player safety in the CHL.

A. The Canadian Hockey League

5. The CHL is a not-for-profit corporation governed under the laws of Ontario. Its head office is in North York, Ontario. The CHL was founded in 1975, and was previously known as the Canadian Major Junior Hockey League.

6. The CHL is the governing body for major junior hockey in Canada. Major junior hockey is the premier, or top tier, level of amateur hockey in Canada for adolescent players 16 to 20 years old (although players can start their first season at 15 years old, and can end their last season at 21 years old as an over-ager). The CHL is the world's largest development hockey league, with 52 Canadian and 8 American teams participating in its three member leagues: the Ontario Hockey League (the **OHL**), the Québec Major Junior Hockey League (the **QMJHL**), and the Western Hockey League (the **WHL**) (individually, a **League**; collectively, the **Leagues**). The current composition of each League is as follows:

- (a) the OHL is made up of 20 teams in Ontario (17), Michigan (2) and Pennsylvania (1);
- (b) the WHL is made up of 22 teams in British Columbia (5), Alberta (5), Saskatchewan (5), Manitoba (2), Washington (4) and Oregon (1); and

-5-

- (c) the QMJHL is made up of 18 teams in Québec (12), New Brunswick (3), Nova Scotia (2) and PEI (1).

Attached as **Exhibit A** is a list of all the teams in the Leagues that includes their legal affiliation.

7. Each League plays separate exhibition, regular season and playoff schedules. In a traditional season, the regular season of each League runs from about the third week of September to the third week of March of the next year. The CHL schedule ends with the Memorial Cup tournament, which sees each of the three League champions as well as the host team play a round-robin tournament to determine a national champion.

8. In total, around 1300 players play in the CHL each season.

9. The CHL is affiliated with Hockey Canada, the national governing body for amateur hockey in Canada. Hockey Canada oversees the management of hockey programs in Canada from entry-level to top-level teams and competitions. The CHL and its member Leagues, teams and players register with Hockey Canada through the Hockey Canada Registry, and are considered “Registered Participants” under Hockey Canada’s by-laws. The Hockey Canada Registry was established in 2000.

10. CHL teams in the United States, and their players, are also registered members of USA Hockey, the governing body for organized hockey in the United States.

B. Roles and Responsibilities of the CHL President

11. My role as President of the CHL is to provide direction for the CHL’s business operations, including the arrangement of broadcast relationships, streaming services, sponsorship

sales and service, finance, marketing, media relations, communications, CHL meetings and the CHL's relationship with third parties such as Hockey Canada, the National Hockey League, and USA Hockey.

12. I report to the CHL Executive Council, which consists of the commissioners of the three member leagues: David Branch of the OHL, Gilles Courteau of the QMJHL, and Ron Robison of the WHL.

C. Policies and Programs Related to Player Safety

13. Nearly all of the players on the CHL's teams are teenagers. Many are living away from home for the first time. As a result, the CHL's teams and the teams' leadership takes seriously the responsibility to ensure all players are supervised and supported in ways appropriate to their ages and circumstances.

14. Since the inception of the Leagues, individual teams have been responsible for player safety on their teams. Pursuant to this responsibility, throughout the years, each team has developed policies, programs and rules related to player safety, including relating to hazing. Over time, policies at the League-level have also been introduced.

15. Given the unique history and organizational structure of each League, any League-wide policies and programs on player safety, among other things, are the responsibility of the Leagues themselves. These policies and programs are disseminated to players at the team-level. The decentralized nature of these policies and programs allows each League to address the specific needs or concerns of their players and teams after collecting feedback at the end of each season. For example, the OHL and WHL have teams in the United States, while the QMJHL does not,

and the QMJHL has far more French-speaking players than the other Leagues, which make CHL-wide policies impractical to design and implement.

16. While there are certain CHL-organized initiatives that span the three Leagues (*i.e.*, Respect in Hockey, anti-doping and mental health support, among others), the Leagues determine how these initiatives operate within their respective League. Each team is then responsible for their implementation, including hosting training sessions, lectures and presentations to players and staff.

17. The creation and implementation of policies about player safety works in much the same way: each League has to draft and update its policies on player safety, and each team has to disseminate, explain, and enforce these policies to their players. Individual teams also create and implement additional policies, programs and rules depending on the needs of their players and the philosophy of their management coaching staff. Many rules that impact player safety are managed at the team level, for example, curfews, school attendance, performance regimes and practice attendance policies. Team management and coaching staff have to conduct themselves in accordance with all relevant policies, procedures, programs and rules, and ensuring their players do the same.

18. In terms of complaint reporting, each League has implemented at least one confidential and independent reporting mechanism, run at the League-level with representatives assigned to each team.

19. The Leagues created their respective policies and programs related to player safety over time based on feedback from players and team personnel. The Leagues were formed at different

-8-

times and have evolved independently, leading to the adoption of policies and programs at different times. Before the Leagues created their respective policies and programs, player safety was entirely the responsibility of the individual teams within the Leagues. Each team had its own rules and procedures based on the philosophies of their management and coaching staff. As policies and procedures were created at the League level, the teams were entrusted with enforcing these policies and procedures. In this way, the implementation of player safety measures has always been the responsibility of the individual teams.

20. As a result of the CHL's decentralized structure and the delegation of responsibilities to the individual teams, the player experience has and does vary across both the Leagues and the teams. Management and coaching staff have a significant influence on the player experience.

21. The one exception to the variability in player experience is that, since their implementation, each League's independent reporting mechanisms are consistent across teams and are equally accessible to all players.

22. When issues with respect to hazing or abuse have arisen, the teams and Leagues have dealt with them promptly both with respect to dealing with the perpetrators and providing support for their victims. The teams and Leagues have also introduced or revised policies and procedures to prevent future incidents. The teams have imposed sanctions on those responsible, including, when necessary, dismissing them from their team and/or the Leagues.

23. I have dedicated my career to sports in Canada. I believe that the CHL and its member Leagues provide a very special hockey and life experience to promising young athletes. I believe

that the CHL's member Leagues have continuously improved their policies and programs, and by extension, the player experience, and will continue to do so.

SWORN by Dan MacKenzie of the City of Guelph, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on October 29, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



DocuSigned by:
Marshall Torgov

EB91330899304D9...

Commissioner for Taking Affidavits
(or as may be)

DocuSigned by:
DM

789EFAB0BA6D421...

DAN MACKENZIE

This is Exhibit A
referred to in the Affidavit of Dan MacKenzie,
sworn before me this 29th day of October, 2021

DocuSigned by:

Marshall Torgov

EB01320890384D9...

A Commissioner for Taking Affidavits

TEAM	CORPORATION
ONTARIO MAJOR JUNIOR HOCKEY LEAGUE	
Mississauga Steelheads	2325224 ONTARIO INC. o/a MISSISSAUGA STEELHEADS, MISSISSAUGA STEELHEADS HOCKEY CLUB INC.
Sarnia Sting	649643 ONTARIO INC. c.o.b. as SARNIA STING
	211 SSHC CANADA ULC o/a SARNIA STING HOCKEY CLUB
Barrie Colts	BARRIE COLTS JUNIOR HOCKEY LTD.
Guelph Storm	GUELPH STORM LTD.
Hamilton Bulldogs	HAMILTON BULLDOGS FOUNDATION INC.
Flint Firebirds	IMS HOCKEY c.o.b. FLINT FIREBIRDS
Erie Otters	JAW HOCKEY ENTERPRISES LP c.o.b. ERIE OTTERS
Kingston Frontenacs	KINGSTON FRONTENACS HOCKEY LTD.
Guelph Storm	KITCHENER RANGERS JR. A. HOCKEY CLUB and KITCHENER RANGERS JR "A" HOCKEY CLUB
London Knights	LONDON KNIGHTS HOCKEY INC.
Niagara Icedogs	NIAGARA ICEDOGS HOCKEY CLUB INC.
North Bay Battalion	NORTHBAY BATTALION HOCKEY CLUB LTD.
Oshawa Generals	OSHAWA GENERALS HOCKEY ACADEMY LTD.
Ottawa 67's	OTTAWA 67'S LIMITED PARTNERSHIP c.o.b. OTTAWA 67'S HOCKEY CLUB

TEAM	CORPORATION
Peterborough Petes	PETERBOROUGH PETES LIMITED
Saginaw Spirit	SAGINAW HOCKEY CLUB, L.L.C
Soo Greyhounds	SOO GREYHOUNDS INC.
Sudbury Wolves	SUDBURY WOLVES HOCKEY CLUB LTD.
Owen Sound Attack	THE OWEN SOUND ATTACK INC.
Windsor Spitfires	WINDSOR SPITFIRES INC.
QUEBEC MAJOR JUNIOR HOCKEY LEAGUE	
Phoenix Sherbrooke	7759983 CANADA INC. c.o.b. AS CLUB DE HOCKEY LE PHOENIX
Charlottetown Islanders	8515182 CANADA INC. c.o.b. CHARLOTTETOWN ISLANDERS
Chicoutimi Saguenéens	9264-8849 QUEBEC INC. c.o.b. as GROUPE SAGS 7-96 AND LES SAGUENEENS
Cape Breton Screaming Eagles	CAPE BRETON MAJOR JUNIOR HOCKEY CLUB LIMITED o/a SCREAMING EAGLES CAPE BRETON
Drummondville Voltigeurs	CLUB DE HOCKEY DRUMMOND INC. o/a VOLTIGEURS DRUMMONDVILLE
Baie-Comeau Drakkar	CLUB DE HOCKEY JUNIOR MAJEUR DE BAIE-COMEAU INC. o/a DRAKKAR BAIE-COMEAU
Val d'Or Foreurs	CLUB DE HOCKEY JUNIOR MAJEUR VAL D'OR INC. o/a VAL D'OR FOREURS
Shawinigan Cataractes	CLUB DE HOCKEY SHAWINIGAN INC. o/a CATARACTES SHAWNIGAN
Quebec Remparts	CLUB HOCKEY LES REMPARTS DE QUEBEC INC.

TEAM	CORPORATION
Halifax Mooseheads	HALIFAX MOOSEHEADS HOCKEY CLUB INC.
Blainville-Boisbriand Armada	LE CLUB DE HOCKEY JUNIOR ARMADA INC.
Oceanic Rimouski	LE CLUB DE HOCKEY L'OCEANIC DE RIMOUSKI INC.
Acadie-Bathurst Titan	LE TITAN ACADIE BATHURST (2013) INC.
Rouyn-Noranda Huskies	LES HUSKIES DE ROUYN-NORANDA INC.
Gatineau Olympiques	LES OLYMPIQUES DE GATINEAU INC.
Victoriaville Tigres	LES TIGRES DE VICTORIAVILLE (1991) INC.
Moncton Wildcats	MONCTON WILDCATS HOCKEY CLUB LIMITED
Saint John Sea Dogs	SAINT JOHN MAJOR JUNIOR HOCKEY CLUB LIMITED
WESTERN HOCKEY LEAGUE	
Medicine Hat Tigers	1091956 ALTA LTD. o/a THE MEDICINE HAT TIGERS
Brandon Wheat Kings	32155 MANITOBA LTD. and MCCRIMMON HOLDINGS, LTD., A PARTNERSHIP c.o.b. as BRANDON WHEAT KINGS, BRANDON WHEAT KINGS LIMITED PARTNERSHIP
Regina Pats	BRAKEN HOLDINGS LTD.
Spokane Chiefs	BRETT SPORTS & ENTERTAINMENT INC., HAT TRICK, INC., JOHN DOE CORP. C o/a SPOKANE CHIEFS

TEAM	CORPORATION
Calgary Hitmen	CALGARY FLAMES LIMITED PARTNERSHIP, CALGARY SPORTS AND ENTERTAINMENT CORPORATION
Prince George Cougars	EDGEPRO SPORTS & ENTERTAINMENT LTD.
Edmonton Oil Kings	EDMONTON MAJOR JUNIOR HOCKEY CORPORATION
Everett Silvertips	EHT, INC., JOHN DOE CORP. A o/a EVERETT SILVERTIPS HOCKEY CLUB
Winnipeg Ice	ICE SPORTS & ENTERTAINMENT INC. o/a WINNIPEG ICE
Kamloops Blazers	KAMLOOPS BLAZERS HOCKEY CLUB, INC., KAMLOOPS BLAZERS HOLDINGS LTD.
Kelowna Rockets	KELOWNA ROCKETS HOCKEY ENTERPRISES LTD.
Lethbridge Hurricanes	LETHBRIDGE HURRICANES HOCKEY CLUB
Medicine Hat Tigers	MEDICINE HAT TIGERS HOCKEY CLUB LTD.
Moose Jaw Warriors	MOOSE JAW TIER 1 HOCKEY INC. D.B.A. MOOSE JAW and MOOSE JAW WARRIORS TIER 1 HOCKEY, INC. WARRIORS o/a MOOSE JAW WARRIORS
Prince Albert Raiders	PRINCE ALBERT RAIDERS HOCKEY CLUB INC.
Regina Pats	QUEEN CITY SPORTS & ENTERTAINMENT GROUP LTD.
Red Deer Rebels	REBELS SPORTS LTD.
Saskatoon Blades	SASKATOON BLADES HOCKEY CLUB LTD.

TEAM	CORPORATION
Swift Current Broncos	SWIFT CURRENT TIER 1 FRANCHISE INC. and SWIFT CURRENT BRONCOS HOCKEY CLUB INC. o/a SWIFT CURRENT
Seattle Thunderbirds	THUNDERBIRDS HOCKEY ENTERPRISES, L.L.C, JOHN DOE CORP. B. o/a SEATTLE THUNDERBIRDS
Tri-City Americans	TRI-CITY AMERICANS HOCKEY LLC, TOP SHELF ENTERTAINMENT, INC., JOHN DOE CORP. D o/a TRI-CITY AMERICANS
Vancouver Giants	VANCOUVER JUNIOR HOCKEY LIMITED PARTNERSHIP and VANCOUVER JUNIOR HOCKEY PARTNERSHIP, LTD. c.o.b. VANCOUVER GIANTS
Victoria Royals	WEST COAST HOCKEY LLP, WEST COAST HOCKEY ENTERPRISES LTD., o/a VICTORIA ROYALS
Portland Winterhawks	WINTERHAWKS JUNIOR HOCKEY LLC PORTLAND WINTER HAWKS INC.

DANIEL CARCILLO et al.
Plaintiffs

-and-

ONTARIO MAJOR JUNIOR HOCKEY LEAGUE et al.
Defendants

Court File No. CV-20-00642705-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF DAN MACKENZIE

BENNETT JONES LLP
3400 One First Canadian Place
P.O. Box 130
Toronto, ON M5X 1A4

Michael A. Eizenga (#31470T)
Email: eizengam@bennettjones.com

Ranjan K. Agarwal (#49488H)
Email: agarwalr@bennettjones.com

Ashley Paterson (#61973B)
Email: patersona@bennettjones.com

Telephone: 416.863.1200

Lawyers for the defendants