Court File No. CV-20-642705-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

DANIEL CARCILLO, GARRETT TAYLOR, and STEPHEN QUIRK

Plaintiffs

- and -

ONTARIO MAJOR JUNIOR HOCKEY LEAGUE, CANADIAN HOCKEY LEAGUE, WESTERN HOCKEY LEAGUE, QUÉBEC 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. 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 QUÉBEC 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 QUÉBEC 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., WINTERHAWKS JUNIOR HOCKEY LLC, PORTLAND WINTER HAWKS INC., THUNDERBIRDS HOCKEY ENTERPRISES, L.L.C., BRETT SPORTS & ENTERTAINMENT, INC., HAT TRICK, INC., TRI-CITY AMERICANS HOCKEY LLC, and TOP SHELF ENTERTAINMENT, INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

FACTUM OF THE MOVING DEFENDANTS

(Rule 21.01(1)(b) "*Ragoonanan*" Motion, Returnable November 14-18, 2022)

October 3, 2022

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PART I: OVERVIEW

1. The plaintiffs are 3 former hockey players who allege that they experienced off-ice maltreatment while playing for 5 of the 60 teams named as defendants in this case. All 60 teams are separately incorporated and independently operated. Each team plays in the Ontario Hockey League (**OHL**), the Québec Major Junior Hockey League (**QMJHL**), or the Western Hockey League (**WHL**), which are the three regional leagues in the Canadian Hockey League (**CHL**). Those 60 teams, the 3 member leagues, and the CHL are all named defendants in this case.

2. The plaintiffs have a *Ragoonanan* problem. There is no proposed representative plaintiff with a cause of action against each defendant. When plaintiffs in a proposed class action have no claim against a defendant, no reasonable cause of action against that defendant can be certified, and the proceeding must be dismissed.

3. The plaintiffs can sue the teams for which they played. They can even sue the leagues in which their teams played. But they cannot plausibly connect their allegations with the remaining distinct corporations running the 55 teams for which they never played (the **Moving Defendants**). The plaintiffs do not—and cannot—offer any cogent legal theory to ground a reasonable cause of action against any Moving Defendant.

4. It is plain and obvious that the plaintiffs have no claims against the Moving Defendants. The Moving Defendants request an order striking out the statement of claim as disclosing no reasonable cause of action against them.[1]

[1] A list of the Moving Defendants can be found at Schedule "C".

5. No Moving Defendant owes a duty of care or fiduciary duty to players on other teams in the same league, let alone those in other leagues, or could be vicariously liable for the activities of other teams' employees or players.

6. Besides competing with other teams in the same regional league and rare interleague events in which only certain teams or players participate (as described in more detail in the moving factum of certain defendants on the pending jurisdiction motion), players generally have no contact with teams other than the one for which they play. The plaintiffs allege no legal relationship between themselves and other teams. Claims against other teams lack reasonable foreseeability of harm and proximity, particularly as they assert positive duties on one team to protect other teams' players from off-ice maltreatment. The plaintiffs allege neither that other teams undertook to protect them from off-ice maltreatment nor that they reasonably relied on other teams to protect them from that sort of harm.

7. No amount of pleading artifice, and no number of conclusory assertions about collective operations unsupported by allegations of material fact, can bridge the gap between the named plaintiffs and the Moving Defendants.

8. The plaintiffs hope to conflate the Moving Defendants with the leagues in which they play, but their attempt fails on the material facts that they have alleged and as a matter of law. The plaintiffs baldly assert that the entities comprising the "CHL League", a non-entity that they define in the statement of claim to include all the defendants, are "inextricably intertwined". The plaintiffs do not plead material facts capable of sustaining their characterization. They do not sue a conceptual "CHL League". They sue the defendant teams, the regional leagues, and the CHL not-for-profit corporation, all of which are separately incorporated and have very different roles,

knowledge, and spheres of action and responsibility. The plaintiffs offer no basis to pierce the Moving Defendants' corporate veils or otherwise to hold them liable for the activities of other factually and legally distinct entities.[2]

9. The plaintiffs should not receive leave to (try to) find as many as 55 additional representative plaintiffs to comply with the *Ragoonanan* principle. They have been aware of this deficiency in their approach since at least December 2020, but have only proposed one representative plaintiff per league. Adding up to 55 other plaintiffs would exacerbate already prohibitive complexity and lack of manageability under their flawed litigation plan, and would delay resolving this proceeding.

10. The *Ragoonanan* principle is alive and well in Ontario. It is good law that has not been overturned. The plaintiffs' approach, if accepted, would gut the *Ragoonanan* principle by doing through the backdoor what the case law provides they cannot do through the front door: have a class action certified when the proposed representative plaintiffs only have claims against some (indeed, a small fraction) of the defendants.

11. This action should be dismissed as against the Moving Defendants.

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[2] See Fresh as Amended Statement of Claim filed April 14, 2022 (**Claim**), ¶1(k). The plaintiffs define "Teams" as "each and all of the following hockey clubs, including each and all of the clubs' owners and operators, all of whom are named as Defendants in this Action".

PART II: FACTS

A. The Plaintiffs' Claims

12. The plaintiffs played for five defendant teams: the Sarnia Sting (OHL), the Lethbridge Hurricanes (WHL), the Prince Albert Raiders (WHL), the Moncton Wildcats (QMJHL),[3] and the Halifax Mooseheads (QMJHL).[4]

13. The plaintiffs allege that they suffered off-ice maltreatment[5] committed by veteran players on their teams and by team and league representatives. They seek damages related to that alleged misconduct, ostensibly from every defendant.[6]

14. The plaintiffs do not allege that they experienced any off-ice maltreatment committed by players or staff of teams besides their own.

B. The Claims Improperly Conflate Defendants

15. The Fresh as Amended Statement of Claim (**Claim**) alleges that the "CHL League" is comprised of the "OHL League", "WHL League", and "QMJHL League", defined together in the Claim as the "Member Leagues". The Claim also alleges that the "Member Leagues" are comprised of, not only the corporate defendants associated with each league, but all 60 teams.[7]

16. The Claim further alleges that "[e]ach Member League, and the larger CHL League [defined to include all the defendants], is an unincorporated association, a partnership, a joint

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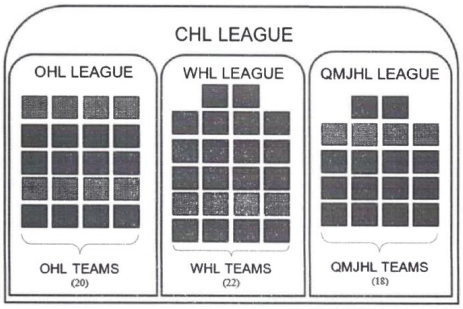
[3] Previously, the Moncton Wildcats were called the Moncton Alpines.
[4] Claim, ¶14-16. Mr. Carcillo also played for the Mississauga IceDogs, but that team no longer exists and is not a named defendant.
[5] The Claim references the defined term "Abuse". See ¶1(n), 14-17, 56-61.
[6] Claim, ¶14-16, 56-61.
[7] Claim, ¶1.

venture, a common enterprise or otherwise operates as a collective",[8] and that their business activities are "inextricably intertwined".[9] In this respect, the Claim ostensibly alleges that all the teams, acting as a single entity, owed a duty of care to all the class members (including the plaintiffs) to protect them against the alleged off-ice maltreatment.[10]

17. Inconsistent with these conflations, the Claim acknowledges distinctions between leagues and teams. The Claim sometimes refers to the "Leagues" and "Teams" separately in the same sentence.[11] The Claim sometimes alleges that the teams are not subsumed within the "Leagues", but are league "agents".[12] The Claim acknowledges that the distinct teams have different players: "each Team is complicit in furthering the culture of silence by failing to take steps to protect Class Members *who are Players on their own Team*".[13] The Claim alleges that the teams are connected to the leagues through governors, but acknowledges that the governors represent "their respective Teams".[14] The distinctions between the various teams are even shown in the following diagram included in the Claim:[15]

[8] See Claim, ¶10 (and similar statements at ¶20, 29, 37, 45, 95, 98-99, 104, 107).
[9] Claim, ¶96, 110-112.
[10] See *e.g.* Claim, ¶85 (alleging that "the Member Leagues' reporting and investigation processes are plagued by problems"). The term "Member Leagues" includes all the teams. The Claim alleges in the alternative that teams owed duties only to their own players (see ¶176-177). The Claim references duties owed by the conceptual "League" entities at ¶100, 105, 108, 120, 126, 135-137, 163-164, 168-169.
[11] See *e.g.* Claim, ¶53-55, 63, 68-74, 94.
[12] See Claim, ¶92, 118, 162, 167, 167(d), 167(e), 167(f), 168, 170-172, 174, 184.
[13] Claim, ¶55 (emphasis added).
[14] Claim, ¶113(a).
[15] Claim, ¶9.



18. The distinctions between the defendants are detailed further in the leagues' constating documents, incorporated into the Claim by reference.[16] The constating documents show that the teams have responsibilities through their agreements to participate in the leagues, and that the teams are responsible for themselves, not league activities.[17] The teams' engagement is regulated through the leagues, and the leagues are themselves incorporated separately from the individual teams (and from each other).[18]

19. The leagues have distinct boards of directors or governors,[19] and executive councils or officers, differing by league.[20]

20. The leagues' constating documents do not show that the leagues are mere façades of the teams (or vice versa), or that teams exercise control over other teams. The constating documents preclude team owners from having a stake in more than one team.[21] They give team owners

[16] Referenced at Claim, ¶12, 23, 102-103, 112-113, 115-116.
[17] See *e.g.* CHL Constitution, ss. 14.4, 14.5, 14.7, OHL Articles, s. 3.2.1, QMJHL Constitution, s. 2.2, Affidavit of Dan MacKenzie sworn April 20, 2022 (**MacKenzie Affidavit**), Defendants' Motion Record (**DMR**), Exhibits A, C, J, Vol IV, pp. 571-572, 618, 905-906.
[18] CHL Constitution, s. 1.1, OHL Articles, s. 1.1, WHL By-Laws and Constitution, recitals, QMJHL Constitution, s. 2.2, MacKenzie Affidavit, Exhibits A, C, I, J, DMR, Vol IV, pp. 542, 615, 838, 905-906.
[19] CHL Constitution, Article 7, OHL Articles, Article 5, WHL By-Laws and Constitution, Part 13, QMJHL Constitution, ss. 4.1, 4.3.2, MacKenzie Affidavit, Exhibits A, C, I, J, pp. 555-560, 630-632, 868-870, 916, 918-919.
[20] CHL Constitution, Article 8, OHL Articles, Article 7, WHL By-Laws and Constitution, Parts 18-19, QMJHL Constitution, ss. 4.5, MacKenzie Affidavit, Exhibits A, C, I, J, pp. 560, 637-640, 874-876, 924-927.
[21] CHL Constitution, s. 4.8, OHL Articles, s. 9.1, WHL By-Laws and Constitution, s. 23.1, QMJHL Constitution, s. 2.1.2, MacKenzie Affidavit, Exhibits A, C, I, J, DMR, Vol IV, pp. 549, 642, 882-883, 904-905.

exclusive authority to operate in their defined territories only.[22] Each team may voluntarily terminate its relationship with the applicable league.[23]

21. Besides teams playing each other in competitive games,[24] the only facts pleaded in support of the allegation of "intertwined" and "collective" activity cannot sustain that allegation. Specifically, the Claim pleads aspects about the leagues at paragraphs 110 and 111 that are either incorrect, irrelevant, or otherwise do not show an "inextricable" connection between the defendants (particularly as they pertain to a duty owed to other teams' players regarding off-ice maltreatment). The Claim pleads as follows:

(a) Team staff, coaches, and general managers often move between teams;

(b) Teams play other teams in their leagues during the regular season and playoffs;

(c) Teams visit other teams' arenas, and host other teams in their own arenas;

(d) The playing schedule is set by the applicable league and its governors;

(e) The applicable league has responsibility for "and a non-delegable duty" to draft and enforce its abuse policies;

(f) Players are drafted into a league based on residential location;

[22] OHL Articles, s. 4.4, WHL By-Laws and Constitution, s. 3.1, QMJHL Constitution, s. 2.3.1, MacKenzie Affidavit, Exhibits C, I, J, DMR, Vol IV, pp. 629, 841, 906-907.
[23] CHL Constitution, s. 4.5, OHL Articles, s. 3.11, WHL By-Laws and Constitution, Part 7, MacKenzie Affidavit, Exhibits A, C, I, DMR, Vol IV, p. 548, 622, 852-853.
[24] Teams compete against other teams within their leagues, and irregularly against a team in another league through the Memorial Cup (Claim, ¶96, 124).

(g) The leagues "draft" the agreements "executed by each player in that Member League, the Team for which [the players] play, and the player's parents";

(h) The leagues approve and register those player agreements;

(i) Players are traded between teams within each league;

(j) Leagues must approve trades; and

(k) Players have no choice about the team they play for, or about trades.[25]

22. Many, if not all, of these alleged features are shared by other sports leagues, in Canada and globally, and reflect the necessity of certain activities action inherent to competitive team sports. They do not indicate that distinct corporations running different teams can be conflated.

23. Besides conflating the teams with the "Leagues", the plaintiffs do not allege that they expected or relied on the Moving Defendants to protect them from the alleged off-ice maltreatment,[26] or that the Moving Defendants undertook to do so.[27]

PART III: ISSUES

24. The only issue on this motion is whether any of the plaintiffs have a cause of action against any of the Moving Defendants.

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[25] This allegation is, at least in some instances, incorrect. The OHL by-laws contemplate that "[h]igh school players cannot be traded without the consent of the player and his parents" per OHL Player Benefit and Recruitment Manual, s. 1.06, MacKenzie Affidavit, Exhibit G, DMR, Vol IV, p. 780. Further, some players have "no trade contracts", which must be waived for a trade to be enforced (see OHL Manager's Manual, "Registration Procedures" 5(c)(vi), MacKenzie Affidavit, Exhibit E, DMR, Vol IV, p. 681).

[26] Claim, ¶167 (referring to the "Member Leagues and their servants, employees and agents, including the Teams"), 172.

[27] Claim, ¶167.

PART IV: LAW AND ARGUMENT

A. *Ragoonanan* Continues to Apply in Ontario

25. In *Vecchio Longo Consulting Services Inc v Aphria Inc* (***Vecchio***), this Court acknowledged the continuing application of the *Ragoonanan* principle in Ontario:

> [I]f a plaintiff has a cause of action against one defendant but no cause of action against a co-defendant, then for the cause of action against the co-defendant to be certified, there must be another plaintiff with a cause of action against the co-defendant and who thus would qualify to be a representative plaintiff against the co-defendant.[28]

26. *Vecchio* traced the *Ragoonanan* principle's roots to the unique procedural and class actions regime in Ontario.[29] Section 2 of the *Class Proceedings Act, 1992* requires a representative plaintiff to be a class member.[30] The *Ragoonanan* principle was also contemplated by the Ontario Law Reform Commission, the recommendations of which led to the class actions regime implemented in this province. [31] These aspects of Ontario's regime explain why other provinces do not have the same requirements. Some other provinces' regimes contemplate representative plaintiffs who are not class members.[32] Likewise, in *Bank of Montreal v Marcotte,* the Supreme Court of Canada declined to interpret the Québec regime as including the *Ragoonanan* principle, but that decision does not apply to Ontario.[33]

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[28] *Vecchio Longo Consulting Services Inc v. Aphria Inc.*, 2021 ONSC 5405 at ¶129 (***Vecchio***), leave to appeal to Div Ct granted, 2022 ONSC 1949. See also recently *Poirer v. Silver Wheaton Corp*, 2022 ONSC 80 at ¶143.
[29] *Vecchio* at ¶128-144, 148-162.
[30] *Class Proceedings Act, 1992*, SO 1992, c 6, s. 2; *Vecchio* at ¶156, 173.
[31] *Vecchio* at ¶176.
[32] *Vecchio* at ¶146-147.
[33] *Vecchio* at ¶97, 125, 170, 173, 177-180. See *Bank of Montreal v. Marcotte*, 2014 SCC 55.

27. The Court of Appeal for Ontario acknowledged the *Ragoonanan* principle in *Hughes v Sunbeam Corp (Canada)*. Justice Laskin held that, "in a proposed class action, there must be a representative plaintiff with a claim against each defendant".[34] This Court remains bound by the Court of Appeal for Ontario's application of the *Ragoonanan* principle. As a result, to sustain a class action against the Moving Defendants, one or more of the proposed representative plaintiffs must have a cause of action against each of them.

B. Principles on Rule 21.01(b) Motions

28. A claim will be dismissed under rule 21.01(1)(b) when it is plain and obvious that no alleged cause of action may succeed.[35] The Court assumes pleaded allegations of material fact to be true, but not "bald conclusory statements of fact and allegations of legal conclusions unsupported by material facts".[36] The Claim's allegations conflating the defendants (*e.g.* that they are jointly and severally liable, that they are agents of each other, and that they all owed duties to all proposed class members) should be ignored in favour of actual material facts.[37]

29. No evidence is admissible on a motion under rule 21.01(1)(b).[38] Documents referenced in the Claim (such as the leagues' constating documents) are not evidence, but pleadings available to evaluate the viability of claims.[39]

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[34] *Hughes v. Sunbeam Corp (Canada)* (2002), 61 OR (3d) 433 (CA) at ¶18.
[35] *Hollick v. Toronto (City)*, 2001 SCC 68 at ¶25; *Martin v. Astrazeneca Pharmaceuticals PLC*, 2012 ONSC 2744 (***Martin***) at ¶108, aff'd 2013 ONSC 1169 (Div Ct); *Carter v. Ford Motor Company of Canada*, 2021 ONSC 4138 at ¶70.
[36] *Das v. George Weston Limited*, 2018 ONCA 1053 (***Das CA***) at ¶74, aff'g 2017 ONSC 4129 (***Das Sup Ct***) at ¶17-20, 80, leave to appeal to SCC ref'd, [2019] SCCA No 69; *Price v. Smith & Wesson Corp*, 2021 ONSC 1114 at ¶50-51; *Jensen v. Samsung Electronics Co Ltd*, 2021 FC 1185 (***Jensen***) at ¶79, 82-83; *Rules of Civil Procedure*, RRO 1990, Reg 194, r. 25.06(1) (***Rules***).
[37] Comparable to *Das Sup Ct* at ¶24, 26, 29-30, 80.
[38] *Rules*, r. 21.01(2)(b).
[39] *Das CA* at ¶74; *Jensen* at ¶85.

C. The Plaintiffs Have No Claims Against the Moving Defendants

1. No Viable Claims Against Other Teams As Distinct Entities

30. It is plain and obvious that the proposed representative plaintiffs have no claims against the Moving Defendants. The plaintiffs plead claims in negligence, breach of fiduciary duty, and vicarious liability. They make no allegation of off-ice maltreatment against any Moving Defendant or the representative of any Moving Defendant. No allegation of material fact suggests any connection between the plaintiffs and the Moving Defendants, besides the immaterial connections that their teams may have played against other teams. Such immaterial connections are subject to further caveats: (i) the applicable defendant team must have existed when the plaintiffs played; (ii) the applicable defendant team must have been owned by one or more of the Moving Defendants when the plaintiffs played;[40] and (iii) the plaintiffs must have played in the same league or participated in a rare interleague event[41] against the other teams (although the plaintiffs do not allege that they participated in any such interleague events).

31. The duty of care case law includes no established category for athletic teams towards players of other athletic teams in the same league. Under the *Anns/Cooper* test, to show a novel

[40] The allegation that the Moving Defendants "agreed to accept the transfer of any historical legal liability… which was held by any previous owners… as required by [Member League] by-laws and constitutions and the common law" is a bald pleading of law, unsupported by material fact, and should not be assumed to be true. See Claim, ¶34, 42, 50. That pleading is inconsistent with the express terms of the referenced "by-laws and constitutions" of the CHL, the OHL, the WHL, and the QMJHL. See the MacKenzie Affidavit and Exhibits A-K (DMR, Vol IV, none of which provide for the transfer of liability from owner to owner).

[41] In this regard, see the moving factum of certain defendants on the pending jurisdiction motion (delivered concurrently with this factum) at ¶52, referencing the Memorial Cup and the home-and-home interleague series. The Claim does not allege maltreatment at any such event.

prima facie duty of care, a plaintiff must prove both reasonable foreseeability that the defendant's actions would harm the plaintiff and a relationship of sufficient proximity.[42]

32. Here, the Moving Defendants could not have reasonably foreseen that the plaintiffs would suffer off-ice maltreatment on their own teams. The Moving Defendants have no control (and are not alleged to have any control) over other teams.[43] Proximity is also not made out here. The plaintiffs do not allege any positive undertaking by the Moving Defendants to protect the plaintiffs from off-ice maltreatment, so any claim against them sounds in nonfeasance. Nonfeasance claims require that the parties have a "special relationship" rooted in "reasonable reliance".[44] No such relationship exists in this case—in fact, the plaintiffs and Moving Defendants have *no* relationship, except (in some cases) as competitors in the same leagues; there is no allegation that the plaintiffs participated in any interleague events. For the Moving Defendant teams that did not exist when the plaintiffs were active in their respective leagues, or which were owned by different ownership groups and/or legal entities at the time of the plaintiffs' allegations, no relationship whatsoever is even possible.[45]

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[42] *Cooper v. Hobart*, 2001 SCC 79 at ¶29; *Deloitte & Touche v. Livent Inc*, 2017 SCC 63 (***Livent***) at ¶23; *1688782 Ontario Inc v. Maple Leaf Foods Inc*, 2020 SCC 35 at ¶30 ("foreseeability alone" is "not enough").

[43] In fact, the team owners are precluded from having an interest in the other teams: CHL Constitution, s. 4.8, OHL Articles, s. 9.1, WHL By-Laws and Constitution, s. 23.1, QMJHL Constitution, s. 2.1.2, MacKenzie Affidavit, Exhibits A, C, I, J, DMR, Vol IV, pp. 549, 642, 882-883, 904-905. The teams engage with each other as regulated through the leagues, which does not create a relationship of control.

[44] *Childs v. Desormeaux*, 2006 SCC 18 at ¶39-40, 46; *Das Sup Ct* at ¶514-516, 532.

[45] To illustrate, the plaintiffs could not reasonably deny that:

- the North Bay Battalion, Mississauga Steelheads, Flint Firebirds, and Hamilton Bulldogs joined the OHL after Mr. Carcillo played in that league (between 2002 and 2005);
- the Winnipeg Ice and Victoria Royals joined the WHL after Mr. Taylor played in that league (between 2008 and 2010); and
- the Blainville-Boisbriand Armada, Saint John Sea Dogs, Charlottetown Islanders, Sherbrooke Phoenix, and Gatineau Olympiques joined the QMJHL after Mr. Quirk played in that league (between 1995 and 1998).

33. Residual policy factors (such as indeterminate liability) may also negate any *prima facie* duty of care at the second stage of the *Anns/Cooper* analysis.[46]

34. Any claims against the Moving Defendants for breach of fiduciary duty are similarly bound to fail. The pleaded facts disclose no basis for a fiduciary relationship between the Moving Defendants and the plaintiffs, who played for different teams. There is no allegation that:

(a) the Moving Defendants undertook to act in the plaintiffs' best interests (particularly, there is no allegation that the Moving Defendants undertook to act in the plaintiffs' best interests with respect to activities of other teams);

(b) the plaintiffs were vulnerable with respect to the Moving Defendants' control (the Moving Defendants had no control); or

(c) the plaintiffs had a legal or practical interest that stood to be harmed by the Moving Defendants' exercise of control (again, they had no such control).[47]

35. The claims in vicarious liability (if they are said to apply to the Moving Defendants) also fail. Parties can only be vicariously liable for the activities of others when their relationship is sufficiently close, including in employment relationships or, sometimes, independent contractor relationships.[48] The Moving Defendants cannot be vicariously liable for the torts of players and staff of *other teams* (*i.e.* the teams on which the proposed representative plaintiffs played), which

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[46] *Livent* at ¶19, 41-45. The Court of Appeal for Ontario considered residual policy factors on pleadings motions in *Eliopoulos v. Ontario (Minister of Health & Long Term Care)* (2006), 82 OR (3d) 321 (CA) at ¶31-33; *Haskett v. Trans Union of Canada Inc* (2003), 63 OR (3d) 577 (CA) at ¶24; *Lowe v. Guarantee Co of North America* (2005), 80 OR (3d) 222 (CA) at ¶52-54. See also *Das Sup Ct* at ¶518-519, 536.
[47] *Das Sup Ct* at ¶568-569, citing *Elder Advocates of Alberta Society v. Alberta*, 2011 SCC 24 at ¶22, 28, 36.
[48] Per *KLB v. British Columbia*, 2003 SCC 51 at ¶19, citing *671122 Ontario Ltd v. Sagaz Industries Canada Inc*, 2001 SCC 59 at ¶33-48. See also *Das Sup Ct* at ¶470-480.

are neither employees nor independent contractors of the Moving Defendants and which are legally distinct entities from the teams with which the representative plaintiffs did have a relationship. On the immediate fact pattern, there is no "significant connection" to impose liability on the Moving Defendants for the wrongful conduct of players and staff on other teams on which the plaintiffs were playing when the alleged off-ice maltreatment occurred.[49]

2. No Viable Allegation of Enterprise Liability

36. By artificially lumping the teams together through their definition of "Leagues", the Claim muddles the roles of the Moving Defendants and other defendants. In these circumstances, it is plain and obvious that the Moving Defendants have no liability to the plaintiffs.

37. Bald pleadings of enterprise liability are improper, and should be disregarded. In *Martin v Astrazeneca Pharmaceuticals PLC* (***Martin***), the plaintiffs "simply lump[ed]" the defendants together, alleging that their businesses were "inextricably interwoven".[50] Justice Horkins observed that the pleading "proceeds to generalize the various allegations as applicable to all defendants indiscriminately",[51] and "lacks clarity as to each defendant's role".[52] Justice Horkins also held that pleadings that each defendant "is the agent of the other" were unsupported by material facts, and insufficient to establish an agency relationship.[53] Bald allegations of "control" are also not to be assumed to be true on a rule 21 motion.[54]

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[49] *Bazley v. Curry*, [1999] 2 SCR 534 at ¶41.
[50] *Martin* at ¶117-118, as recently reviewed in *Fibracast Ltd v. Waterspin Srl*, 2021 ONSC 2147 at ¶29-43.
[51] *Martin* at ¶118-120.
[52] *Martin* at ¶117.
[53] *Martin* at ¶126.
[54] *Das Sup Ct* at ¶80; *Das CA* at ¶71, 73-74.

38. These observations apply to the Claim. The plaintiffs plead no material facts to ground the allegation that the Moving Defendants are a single entity. The bald allegation of enterprise liability cannot be accepted when the plaintiffs specifically allege off-ice maltreatment while playing for certain teams, without any material facts to suggest contribution to that off-ice maltreatment by the Moving Defendants. As Justice Horkins held in *Martin*, "the defendants cannot be liable for one another's conduct on this pleading".[55]

39. Unlike in *Martin*, the Moving Defendants share no parent (or subsidiary) corporation, nor are they shareholders of other defendants. Their relationship is as competing teams in the same hockey leagues, all of which are distinctly incorporated. Although the Moving Defendants engage with their leagues as provided in their constitutions, the leagues are legally different from the teams and the teams are legally different from each other. There is thus even less of a basis for imposing liability on the Moving Defendants for the actions of other defendants than there was for the defendants in *Martin*.[56] The claims based in enterprise liability are bound to fail.

40. In *Martin*, the Court also considered whether such pleadings of enterprise liability could establish a basis to pierce the defendants' corporate veils. If the plaintiffs seek to pierce the veils of any of the defendants here to impose liability on the Moving Defendants, no pleaded material facts are capable of sustaining such liability.[57] Courts will only pierce the corporate veil when:

(a) construing a statute, contract, or other document;

(b) satisfied that a company is a "mere façade" concealing the true facts; and

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[55] *Martin* at ¶127.
[56] *Martin* at ¶121-122.
[57] *Martin* at ¶123-124.

(c) it can be shown that the company is an authorized agent of its controllers or its members, whether corporate or human.[58]

41. Courts will not lightly pierce the corporate veil. Generally, separate personality will be respected, even of a wholly-owned subsidiary, "unless the subsidiary is under the complete control of the parent and is nothing more than a conduit used by the parent to avoid liability".[59] A court must be satisfied that "(i) there is complete control of the subsidiary, such that the subsidiary is the 'mere puppet' of the parent corporation; and (ii) the subsidiary was incorporated for a fraudulent or improper purpose or used by the parent as a shell for improper activity".[60]

42. The Moving Defendants are separately incorporated and independently operated hockey teams playing across three different leagues. They are not shareholders of the leagues or other teams (owners are, in fact, prohibited from having an interest in other teams). They are distinct corporations with limited liability.

43. Even if the Moving Defendants were shareholders of any of the other defendants, there would be no basis to pierce their corporate veils. With respect to the leagues, there is no allegation of material fact that the Moving Defendants exercise "complete" control. Rather, each team is a single contributor to its applicable league shared with the other teams, with limited influence on league activity.[61] The teams also do not control each other—in fact, the team

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[58] *Yaiguaje v. Chevron Corporation*, 2018 ONCA 472 at ¶65 (***Chevron***).
[59] *Yaiguaje v. Chevron Corporation*, 2018 ONCA 472 at ¶66; *Cornerstone Properties v. Southside Construction*, 2018 ONSC 7487 at ¶12, aff'd 2020 ONCA 380.
[60] *Chevron* at ¶66.
[61] CHL Constitution, Article 10, OHL Articles, ss. 6.5, 6.7, WHL By-Laws and Constitution, ss. 13.5, 15, QMJHL Compiled Regulations, R-2, ss. 1.5, 1.9, 2.2, MacKenzie Affidavit, Exhibits A, C, I, K, DMR, Vol IV, pp. 566-569, 633-636, 869, 871-872, 945, 947-949.

owners are precluded from having an interest in the other teams.[62] They engage with each other as regulated through the leagues, which does not create a relationship of control. There is no alleged fraud related to the defendants' business structure (or otherwise). There is no alleged material fact to establish agency (which is a pleading of law).[63]

D. Leave To Add Representative Plaintiffs Should Not Be Granted

44. In *Vecchio*, despite the absence of representative plaintiffs with claims against all five defendants,[64] this Court gave the plaintiffs an opportunity to identify more representative plaintiffs.[65] That approach, while reasonable in *Vecchio*, would be unreasonable here.[66] The Claim contains no specific allegation of off-ice maltreatment with respect to any players while they were playing for any Moving Defendant.

45. The plaintiffs have known of this defect in their approach for a long time. The Moving Defendants' Notice of Motion raising the *Ragoonanan* principle was first delivered on December 30, 2020. In response, the plaintiffs only added a proposed representative plaintiff with a claim against the QMJHL and two QMJHL teams.

46. Unlike in *Vecchio*, there is no indication here that class members with claims against all of the defendants exist, or that the plaintiffs lacked the resources necessary to locate potential representative plaintiffs.[67] The motion records leading up to certification in this matter are

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[62] CHL Constitution, s. 4.8, OHL Articles, s. 9.1, WHL By-Laws and Constitution, s. 23.1, QMJHL Constitution, s. 2.1.2, MacKenzie Affidavit, Exhibits A, C, I, J, DMR, Vol IV, pp. 549, 642, 882-883, 904-905.
[63] See also *Williams v. Canon Canada Inc*, 2011 ONSC 6571 at ¶218-220, aff'd 2012 ONSC 3692.
[64] *Vecchio* at ¶126.
[65] *Vecchio* at ¶185.
[66] Leave to amend in respect of a similar deficiency was not granted in *Attis v Canada (Minister of Health)* (2003), 120 ACWS 3d 66 (Ont Sup Ct) at ¶34-42, aff'd (2003), 127 ACWS (3d) 450 (ONCA), leave to appeal to SCC ref'd, [2004] SCCA No 41.
[67] *Vecchio* at ¶183.

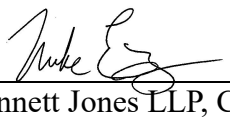
extensive. There have been many cross-examinations. Yet claims of alleged off-ice maltreatment with respect to various teams remain "entirely speculative".[68] Nothing suggests that there are past or current players who played for all of the Moving Defendants and experienced off-ice maltreatment. Whether hypothetical persons with such claims want to be representative plaintiffs remains equally a matter of pure speculative. Delaying this proceeding so that the plaintiffs can search for additional potential representative plaintiffs is not warranted.

47. Separately, while in *Vecchio* the deficiency could be remedied by locating only 4 more representative plaintiffs, up to 55 more representative plaintiffs would be needed here. The need for up to 60 representative plaintiffs to effectively prosecute claims against all of the defendants underscores the commonality and manageability problems at the heart of this proposed class action.[69] The common issues process would require discovery and trials of each representative plaintiff.[70] That approach would necessarily break down into individual trials. Maintaining the Claim as against the Moving Defendants would not further the goals of class proceedings.

PART V: ORDER REQUESTED

48. The Moving Defendants request that this action be dismissed against them, with costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 3rd day of October, 2022.



Bennett Jones LLP, Cassels Brock & Blackwell LLP, and Lax O'Sullivan Lisus Gottlieb LLP

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[68] *Ragoonanan Estate v. Imperial Tobacco Canada Ltd* (2000), 51 OR 3d 603 (Sup Ct) at ¶56.
[69] *Berg v Canadian Hockey League*, 2017 ONSC 2608 at ¶137, 179, 205, 209, rev'd in part 2019 ONSC 2106; *Setoguchi v. Uber BV*, 2021 ABQB 18 at ¶120-121.
[70] *Lipson v. Cassels Brock & Blackwell LLP*, 2019 ONSC 5524 at ¶4.

SCHEDULE "A"

LIST OF AUTHORITIES

1. *Vecchio Longo Consulting Services Inc v. Aphria Inc.*, 2021 ONSC 5405
2. *Poirer v. Silver Wheaton Corp*, 2022 ONSC 80
3. *Bank of Montreal v. Marcotte*, 2014 SCC 55
4. *Hughes v. Sunbeam Corp (Canada)* (2002), 61 OR (3d) 433 (CA)
5. *Hollick v. Toronto (City)*, 2001 SCC 68
6. *Martin v. Astrazeneca Pharmaceuticals PLC*, 2012 ONSC 2744
7. *Martin v. Astrazeneca Pharmaceuticals PLC*, 2013 ONSC 1169 (Div Ct)
8. *Carter v. Ford Motor Company of Canada*, 2021 ONSC 4138
9. *Das v. George Weston Limited*, 2018 ONCA 1053
10. *Das v. George Weston Limited*, 2017 ONSC 4129
11. *Price v. Smith & Wesson Corp*, 2021 ONSC 1114
12. *Jensen v. Samsung Electronics Co Ltd*, 2021 FC 1185
13. *Cooper v. Hobart*, 2001 SCC 79
14. *Deloitte & Touche v. Livent Inc*, 2017 SCC 63
15. *1688782 Ontario Inc v. Maple Leaf Foods Inc*, 2020 SCC 35
16. *Childs v. Desormeaux*, 2006 SCC 18
17. *Eliopoulos v. Ontario (Minister of Health & Long Term Care)* (2006), 82 OR (3d) 321 (CA)
18. *Haskett v. Trans Union of Canada Inc* (2003), 63 OR (3d) 577 (CA)
19. *Lowe v. Guarantee Co of North America* (2005), 80 OR (3d) 222 (CA)
20. *Elder Advocates of Alberta Society v. Alberta*, 2011 SCC 24
21. *KLB v. British Columbia*, 2003 SCC 51
22. *671122 Ontario Ltd v. Sagaz Industries Canada Inc*, 2001 SCC 59

23. *Fibracast Ltd v. Waterspin Srl*, 2021 ONSC 2147

24. *Yaiguaje v. Chevron Corporation*, 2018 ONCA 472

25. *Yaiguaje v. Chevron Corporation*, 2018 ONCA 472

26. *Cornerstone Properties v. Southside Construction*, 2018 ONSC 7487

27. *Cornerstone Properties Inc. v. Southside Construction Management Limited*, 2020 ONCA 380

28. *Williams v. Canon Canada Inc.*, 2011 ONSC 6571

29. *Williams v. Canon Canada Inc.*, 2012 ONSC 3692

30. *Attis v Canada (Minister of Health*) (2003), 120 ACWS 3d 66 (Ont Sup Ct)

31. *Attis v. Canada*, (2003), 127 ACWS (3d) 450 (ONCA)

32. *Ragoonanan Estate v. Imperial Tobacco Canada Ltd* (2000), 51 OR 3d 603 (Sup Ct)

33. *Berg v Canadian Hockey League*, 2017 ONSC 2608

34. *Berg et al. v. Canadian Hockey League et al.*, 2019 ONSC 2106

35. *Setoguchi v. Uber BV*, 2021 ABQB 18

36. *Lipson v. Cassels Brock & Blackwell LLP*, 2019 ONSC 5524

SCHEDULE "B"

TEXT OF STATUTES, REGULATIONS & BY-LAWS

***Rules of Civil Procedure*, RRO 1990, Reg 194**

Where Available

To Any Party on a Question of Law

21.01 (1) A party may move before a judge,

(a) for the determination, before trial, of a question of law raised by a pleading in an action where the determination of the question may dispose of all or part of the action, substantially shorten the trial or result in a substantial saving of costs; or

(b) to strike out a pleading on the ground that it discloses no reasonable cause of action or defence,

and the judge may make an order or grant judgment accordingly. R.R.O. 1990, Reg. 194, r. 21.01 (1).

(2) No evidence is admissible on a motion,

(a) under clause (1) (a), except with leave of a judge or on consent of the parties;

(b) under clause (1) (b). R.R.O. 1990, Reg. 194, r. 21.01 (2).

To Defendant

(3) A defendant may move before a judge to have an action stayed or dismissed on the ground that,

Jurisdiction

(a) the court has no jurisdiction over the subject matter of the action;

Capacity

(b) the plaintiff is without legal capacity to commence or continue the action or the defendant does not have the legal capacity to be sued;

Another Proceeding Pending

(c) another proceeding is pending in Ontario or another jurisdiction between the same parties in respect of the same subject matter; or

Action Frivolous, Vexatious or Abuse of Process

(d) the action is frivolous or vexatious or is otherwise an abuse of the process of the court,

and the judge may make an order or grant judgment accordingly. R.R.O. 1990, Reg. 194, r. 21.01 (3).

Rules of Pleading — Applicable to all Pleadings

Material Facts

25.06 (1) Every pleading shall contain a concise statement of the material facts on which the party relies for the claim or defence, but not the evidence by which those facts are to be proved. R.R.O. 1990, Reg. 194, r. 25.06 (1).

Pleading Law

(2) A party may raise any point of law in a pleading, but conclusions of law may be pleaded only if the material facts supporting them are pleaded. R.R.O. 1990, Reg. 194, r. 25.06 (2).

Condition Precedent

(3) Allegations of the performance or occurrence of all conditions precedent to the assertion of a claim or defence of a party are implied in the party's pleading and need not be set out, and an opposite party who intends to contest the performance or occurrence of a condition precedent shall specify in the opposite party's pleading the condition and its non-performance or non-occurrence. R.R.O. 1990, Reg. 194, r. 25.06 (3).

Inconsistent Pleading

(4) A party may make inconsistent allegations in a pleading where the pleading makes it clear that they are being pleaded in the alternative. R.R.O. 1990, Reg. 194, r. 25.06 (4).

(5) An allegation that is inconsistent with an allegation made in a party's previous pleading or that raises a new ground of claim shall not be made in a subsequent pleading but by way of amendment to the previous pleading. R.R.O. 1990, Reg. 194, r. 25.06 (5).

Notice

(6) Where notice to a person is alleged, it is sufficient to allege notice as a fact unless the form or a precise term of the notice is material. R.R.O. 1990, Reg. 194, r. 25.06 (6).

Documents or Conversations

(7) The effect of a document or the purport of a conversation, if material, shall be pleaded as briefly as possible, but the precise words of the document or conversation need not be pleaded unless those words are themselves material. R.R.O. 1990, Reg. 194, r. 25.06 (7).

Nature of Act or Condition of Mind

(8) Where fraud, misrepresentation, breach of trust, malice or intent is alleged, the pleading shall contain full particulars, but knowledge may be alleged as a fact without pleading the circumstances from which it is to be inferred. O. Reg. 61/96, s. 1.

Claim for Relief

(9) Where a pleading contains a claim for relief, the nature of the relief claimed shall be specified and, where damages are claimed,

(a) the amount claimed for each claimant in respect of each claim shall be stated; and

(b) the amounts and particulars of special damages need only be pleaded to the extent that they are known at the date of the pleading, but notice of any further amounts and particulars shall be delivered forthwith after they become known and, in any event, not less than ten days before trial. R.R.O. 1990, Reg. 194, r. 25.06 (9).

SCHEDULE "C"

MOVING DEFENDANTS

1. 2325224 Ontario Inc. o/a Mississauga Steelheads
2. Mississauga Steelheads Hockey Club Inc.
3. Barrie Colts Junior Hockey Ltd.
4. Guelph Storm Ltd.
5. Hamilton Bulldogs Foundation Inc.
6. Ims Hockey c.o.b. Flint Firebirds
7. JAW Hockey Enterprises LP c.o.b. Erie Otters
8. Kingston Frontenacs Hockey Ltd.
9. Kitchener Ranger Jr. A. Hockey Club
10. Kitchener Rangers Jr "A" Hockey Club
11. London Knights Hockey Inc.
12. Niagara IceDogs Hockey Club Inc.
13. Northbay Battalion Hockey Club Ltd.
14. Oshawa Generals Hockey Academy Ltd.
15. Ottawa 67's Limited Partnership c.o.b. Ottawa 67's Hockey Club
16. Peterborough Petes Limited
17. Saginaw Hockey Club, L.L.C.
18. Soo Greyhounds Inc.
19. Sudbury Wolves Hockey Club Ltd.
20. The Owen Sound Attack Inc.
21. Windsor Spitfires Inc.
22. 1091956 Alta Ltd. o/a The Medicine Hat Tigers
23. Medicine Hat Tigers Hockey Club Ltd.
24. 32155 Manitoba Ltd.
25. McCrimmon Holdings, Ltd., a Partnership c.o.b. as Brandon Wheat Kings
26. Brandon Wheat Kings Limited Partnership
27. Braken Holdings Ltd.
28. Queen City Sports & Entertainment Group Ltd.

29. Brett Sports & Entertainment, Inc.
30. Hat Trick, Inc.
31. Calgary Flames Limited Partnership
32. Calgary Sports and Entertainment Corporation
33. Edgepro Sports & Entertainment Ltd.
34. Edmonton Major Junior Hockey Corporation
35. EHT, Inc.
36. Ice Sports & Entertainment Inc. o/a Winnipeg Ice
37. Kamloops Blazers Hockey Club, Inc.
38. Kamloops Blazers Holdings Ltd.
39. Kelowna Rockets Hockey Enterprises Ltd.
40. Moose Jaw Tier 1 Hockey Inc. d.b.a. Moose Jaw
41. Moose Jaw Warriors Tier 1 Hockey, Inc. o/a Moose Jaw Warriors
42. Rebels Sports Ltd.
43. Saskatoon Blades Hockey Club Ltd.
44. Swift Current Tier 1 Franchise Inc.
45. Swift Current Broncos Hockey Club Inc. o/a Swift Current
46. Thunderbirds Hockey Enterprises, LLC
47. Tri-City Americans Hockey LLC
48. Top Shelf Entertainment, Inc.
49. Vancouver Junior Hockey Limited Partnership
50. Vancouver Junior Hockey Partnership, Ltd c.o.b. Vancouver Giants
51. West Coast Hockey LLP
52. West Coast Hockey Enterprises Ltd. o/a Victoria Royals
53. Winterhawks Junior Hockey LLC
54. Portland Winter Hands Inc.
55. 7759983 Canada Inc. c.o.b. as Club De Hockey le Phoenix
56. 8515182 Canada Inc. c.o.b. Charlottetown Islanders
57. 9264-8849 Quebec Inc. c.o.b. as Groupe Sags 7-96 and Les Sagueneens
58. Crap Breton Major Junior Hockey Club Limited o/a Screaming Eagles Cape Breton

59. Club de Hockey Drummond Inc. o/a Voltigeurs Drummondville
60. Club de Hockey Junior Majeur de Baie-Comeau Inc. o/a Drakkar Baie-Comeau
61. Club de Hockey Junior Majeur Val D'or Inc. o/a Val D'Or Foreurs
62. Club de Hockey Shawinigan Inc. o/a Cataractes Shawnigan
63. Club Hockey les Remparts de Québec Inc.
64. Le Club de Hockey Junior Armada Inc.
65. Le Club de Hockey L'Oceanic de Rimouski Inc.
66. Le Titan Acadie Bathurst (2013) Inc.
67. Les Huskies de Rouyn-Noranda Inc.
68. Les Olympiques de Gatineau Inc.
69. Les Tigres de Victoriaville (1991) Inc.
70. Saint-John Major Junior Hockey Club Limited

DANIEL CARCILLO et al.
Plaintiffs

-and-

ONTARIO MAJOR JUNIOR HOCKEY LEAGUE et al.
Defendants

Court File No. CV-20-642705-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

FACTUM OF THE MOVING DEFENDANTS

(Rule 21.01(1)(b) "*Ragoonanan*" Motion, Returnable November 14-18, 2022)

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