



Amended pursuant to Rule 6-1 (1) (a)  
Original filed January 9, 2019

NO.: S190264  
Vancouver Registry

*In the Supreme Court of British Columbia*

Between:

**JAMES JOHNATHON MCEWAN, as REPRESENTATIVE PLAINTIFF**

PLAINTIFF

and

**CANADIAN HOCKEY LEAGUE/ LIGUE CANADIENNE DE HOCKEY,  
WESTERN HOCKEY LEAGUE and,  
CANADIAN HOCKEY ASSOCIATION/ ASSOCIATION CANADIENNE DE HOCKEY  
d.b.a. HOCKEY CANADA**

DEFENDANTS

**Brought pursuant to the *Class Proceedings Act*, R.S.B.C. 1996, c. 50**

**AMENDED NOTICE OF CIVIL CLAIM**

**This action has been started by the Plaintiff for the relief set out in Part 2 below.**

If you intend to respond to this action, you or your lawyer must:

- (a) File a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below; and,
- (b) Serve a copy of the filed response to civil claim on the Plaintiff.

If you intend to make a counterclaim, you or your lawyer must:

- (a) File a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below; and,
- (b) Serve a copy of the filed response to civil claim and counterclaim on the Plaintiff and on any new parties named in the counterclaim.

**JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.**

## **TIME FOR RESPONSE TO CIVIL CLAIM**

A response to civil claim must be filed and served on the Plaintiff:

- (a) If you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you;
- (b) If you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you;
- (c) If you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you; or,
- (d) If the time for response to civil claim has been set by order of the court, within that time.

## **CLAIM OF THE PLAINTIFF**

### **PART 1: STATEMENT OF FACTS**

#### **The Plaintiff**

1. The proposed Representative Plaintiff, JAMES JOHNATHON MCEWAN (“Mr. McEwan”) has an address for delivery in these proceedings at #1010 – 570 Granville Street, Vancouver, British Columbia.

#### **The Defendants**

2. The Defendant, CANADIAN HOCKEY LEAGUE/ LIGUE CANADIENNE DE HOCKEY (“CHL”), is a federal corporation incorporated in Canada under the *Canada Not-for-profit Corporations Act*, SC 2009, c 23. and is the umbrella organization that, through its constitution, by-laws and regulations, oversees, controls and administers the operations of North America’s three major junior hockey leagues for players 16 to 20 years of age: The Western Hockey League (“WHL”), the Ontario Hockey League (“OHL”) and the Quebec Major Junior Hockey League (“QMJHL”). The CHL’s registered office address is 305 Milner Avenue, Suite 201, Toronto ON, M1B 3V4.
3. The Defendant, WESTERN HOCKEY LEAGUE (“WHL”), is a corporation incorporated under the laws of Canada. It operates a major junior hockey league from its offices in

Calgary, Alberta under the supervision of the CHL, with member franchises called Clubs located in the Provinces of Alberta, Manitoba, Saskatchewan, and British Columbia. The WHL also has member franchises located in the States of Washington and Oregon, USA.

4. The Defendant, CANADIAN HOCKEY ASSOCIATION/ ASSOCIATION CANADIENNE DE HOCKEY doing business as HOCKEY CANADA (“HOCKEY CANADA”), is a federal corporation incorporated in Canada under the *Canada Not-for-profit Corporations Act*, SC 2009, c 23. Hockey Canada has offices in Calgary, Ottawa and Toronto, and operates regional centres in Ontario and Quebec.

**Class**

5. Mr. McEwan brings this action on his own behalf and on behalf of a proposed class of individuals (together, the “**Player Class**”) consisting of:

“Any person, or their estate, resident in Canada who played in the Canadian Hockey League during the Class Period”

The “Canadian Hockey League” includes the Western Hockey League, the Ontario Hockey League and the Quebec Major Junior Hockey League.

The “Class Period” commences August 21, 1974 and continues until a date fixed by the Court.

~~Any and all former and current players in the CHL who did not play in the National Hockey League (“NHL”) and suffered injury as a result of concussive and sub-concussive impacts to the head during a ‘hockey activity’ which is defined as any on-ice or off-ice function involving physical activity (as defined in 5.11.7.1 of the *Hockey Canada Policy and Procedures Manual* amended January 2010)~~

- ~~6. Mr. McEwan brings this action on behalf of a proposed class of individuals (the “**Health Care Costs Class**”) consisting of:~~

~~Any and all former and current players in the CHL who did not play in the National Hockey League (“NHL”) and suffered injury as a result of concussive~~

~~and sub-concussive impacts to the head during a ‘hockey activity’ which is defined as any on-ice or off-ice function involving physical activity, and who are beneficiaries who have received *health care services*, as those italicized terms are defined in the *HCCRA*.~~

7. All persons who, by reason of his or her relationship to a member of the Player Class, are entitled to make a derivative claim, whether at common law or by statute, ~~claims under any of the Dependents Statutes in British Columbia or elsewhere in Canada~~ as a result of the personal injury of such member of the Player Class (the “**Family Class**”).
8. The members of the Player Class, ~~the Health Care Costs Class~~ and the Family Class will be referred to hereinafter, collectively, as the “**Class Members**”.

### **History of Concussion and CTE**

9. It has been known for decades that multiple blows to the head can lead to long-term brain injury, including but not limited to memory loss, dementia, depression, and Chronic Traumatic Encephalopathy (“CTE”) and its related symptoms.
10. As far back as 1928 pathologist Harrison Martland described the clinical spectrum of abnormalities consistent with long-term brain injuries. He found these symptoms in almost 50 percent of fighters (boxers) if they “kept at the game long enough” (“The Martland Study”).
11. The Martland Study was published in the Journal of the American Medical Association.
12. The Martland Study was the first to link sub-concussive blows and mild concussions to degenerative brain disease (also known as being “Punch Drunk”).
13. In 1948, the New York State Legislature created the Medical Advisory Board of the New York Athletic Commission for the specific purpose of creating mandatory rules for professional boxing designed to prevent or minimize these health risks to boxers.
14. After a three-year study, the Medical Advisory Board recommended that:

- a) An accident survey committee be formed to study ongoing accidents and deaths in boxing rings;
  - b) At least two physicians be at ring-side for every bout;
  - c) Post-bout medical follow-up exams be implemented;
  - d) A 30-day period of no activity following a knockout and a medical follow-up for the boxer. These measures were designed to avoid the development of Traumatic Encephalopathy, also known as Punch Drunk syndrome;
  - e) It should be a physician's prerogative to recommend that a boxer temporarily surrender their boxing license if the physician notes that the boxer suffers significant injury or knockout; and
  - f) A medical investigation be conducted for boxers who suffer numerous knockouts.
15. The recommendations were codified into the rules of the New York State Athletic Commission.
16. Around 1952, the Journal of the American Medical Association published a study of encephalopathic changes in professional boxers. That same year, an article published in the New England Journal of Medicine recommended a three-strike rule for concussions in American football (i.e., recommending that players cease to play football after receiving their third concussion).
17. In 1962, Drs. Serel & Jaros looked at the heightened incidence of chronic encephalopathy in boxers and characterized the disease as "Parkinsonian", describing a pattern of progressive decline.
18. A 1963, a study by Drs. Mawdsley & Ferguson found that subject boxers sustained chronic neurological damages as a result of repeated head injuries. This damage manifested in the form of dementia and impairment of motor function. See "Neurological Disease in Boxers",

Lancet 2: 795-81.

19. In 1973, Drs. Corsellis, Bruton, & Freeman-Browne studied the physical neurological impact of boxing. This study outlined the neuropathological characteristics of “Dementia Pugilistica” (TDP) including loss of brain cells, cerebral atrophy, and neurofibrillary tangles.
20. In 1973, a potentially fatal condition known as “Second Impact Syndrome”, where re-injury to an already-concussed brain can trigger swelling that the skull cannot accommodate, was discovered. It did not receive this name until 1984.
21. In 1975, a study by Drs. Gronwall & Wrightson studied the cumulative effects of concussive injuries in non-athletes. The study found that those who suffered multiple concussions took longer to recover than those who suffered from a single concussion. The authors noted that these results could be extrapolated to athletes given the common occurrence of concussions in sports.
22. Between 1952 and 1994, numerous additional studies were published in medical journals, including the Journal of American Medical Association, Neurology, the New England Journal of Medicine, and Lancet warning of the dangers of single concussions, multiple concussions, and head trauma from multiple concussions. These studies collectively established that:
  - a) Repetitive head trauma in contact sports, including boxing and football, has potential dangerous long-term effects on brain function;
  - b) Encephalopathy (Dementia Pugilistica) is caused in boxers by repeated sub concussive and concussive impacts to the head;
  - c) Acceleration and rapid deceleration of the cranium resulting in loss of consciousness in primates also results in a tearing of the axons (brain cells) within the brainstem;
  - d) There is a correlation between neurologic pathology and length of the athlete’s career, even in athletes who experience only mild concussions;

- e) Immediate retrograde memory issues occur following concussions;
  - f) Even mild head injuries require recovery time free of the risk of further injury;
  - g) Head trauma is linked to dementia;
  - h) American football players who suffer concussions require significant rest before they can return to contact; and
  - i) Even minor head trauma can lead to neuropathological and neurophysiological alterations, including neuronal damage, reduced cerebral blood flow, altered brainstem evoked potentials and reduced speed of information processing.
23. In the 1980's, the Department of Neurosurgery at the University of Virginia published studies on patients who sustained Mild Traumatic Brain Injuries ("MTBI"). They observed long-term damage in the form of unexpected cognitive impairment. These studies were published in neurological journals and treatises within Canada and the United States.
24. In 1982, the University of Virginia and other institutions conducted studies on college football teams that showed that football players who suffered from MTBI suffered from pathological short-term and long-term damage. With respect to concussions, the same studies showed that a person who sustained one concussion was more likely to sustain a second one, particularly if that person was not properly treated and removed from activity sufficient to allow all concussion symptoms to resolve.
25. The same studies showed that multiple concussions sustained within a short time could have serious short-term and long-term consequences in both football players and other victims of brain trauma.
26. In 1986, Dr. Robert Cantu of the American College of Sports Medicine published "Concussion Grading Guidelines", which he later updated in 2001.
27. By 1991, three distinct medical professionals/entities, all independent from structured sports,

developed a “return-to-play” criteria for athletes suspected of sustaining head injuries. These medical professionals and entities included Dr. Robert Cantu of the American College of Sports Medicine, the American Academy of Neurology, and the Colorado Medical Society.

28. The top North American hockey prospects that play in the National Hockey League (“NHL”) are filtered through the Major Junior Ice Hockey Programs such as the CHL.
29. In 1997, the NHL and the NHL Players Association (“NHLPA”) jointly began the NHL-NHLPA Concussion Program with the purpose of studying the effects of concussions and educating their players on concussion prevention and response.
30. A 2001 study on concussions in junior hockey players titled, “Concussions in Hockey: There is cause for Concern”, reports that between 1998 and 2000, British Columbia Junior Hockey League (“BCJHL”) players experienced roughly 5 concussions per 1000 games played.
31. The same study reports that BCJHL players suffered from their first concussion at the average age of 15.
32. A 2003 study titled “National Hockey League Reported Concussions 1986-87 to 2001-02, by Charles H. Tator, Director of the Canadian Sports Concussion Project, reported that between the 1997-1998 and 2001-2002 seasons, NHL players suffered from an average of 80 concussions per season. Instances of concussion rose from 4 reported concussions in the 1986-1987 season to a high of 30 reported concussions in 2000-2001. Dr. Tator attributes the rise to increased incidence and league awareness.
33. The NHL implemented rule changes in 2004 for the 2005-2006 season designed to reduce concussions and head injuries.

### **Hockey Canada**

32. Hockey Canada, which merged with the Canadian Amateur Hockey Association in 1998, is the national governing body of ice hockey and ice sledge hockey in Canada and is a member of the International Ice Hockey Federation.



33. Hockey Canada is the national governing body for grassroots hockey in Canada. The organization works in conjunction with the 13-member branches, the CHL and U Sports.
34. Hockey Canada oversees the management of programs in Canada from entry-level to high performance teams and competitions, including teams participating in the world championships and the Olympic Winter Games. Hockey Canada is also Canada's voice within the International Ice Hockey Federation.

### **The Canadian Hockey League**

35. The CHL is the governing body for major junior hockey, the top level of junior hockey in Canada.
36. The CHL is generally considered the world's top junior hockey league for developing professional players and is a key supplier of new players and officials for the many North American professional hockey leagues, such as the NHL, AHL, and the ECHL.
37. At all material times, the CHL oversees, controls and administers the operations of North America's three major junior hockey leagues: the WHL, the OHL and the QMJHL. Sixty Clubs across Canada and in the United States participate in the three leagues.
38. At the conclusion of each of the league's playoffs, the CHL hosts the MasterCard Memorial Cup, a National Championship tournament involving each of the three League's Champions and the tournament host.
39. The CHL depends heavily on billet families to provide support and guidance to minors who play in the CHL. A billet family offers room and board to players who leave home to join elite teams in other provinces and states between the age of 16 and 20 years of age.
40. The object of a billet family is to provide a "home away from home" for young players during the hockey season, which includes guidance and supervision for the player.
41. Billet families are paid a monthly expense cheque by CHL teams to assist with the costs of

food and housing.

### **The Western Hockey League**

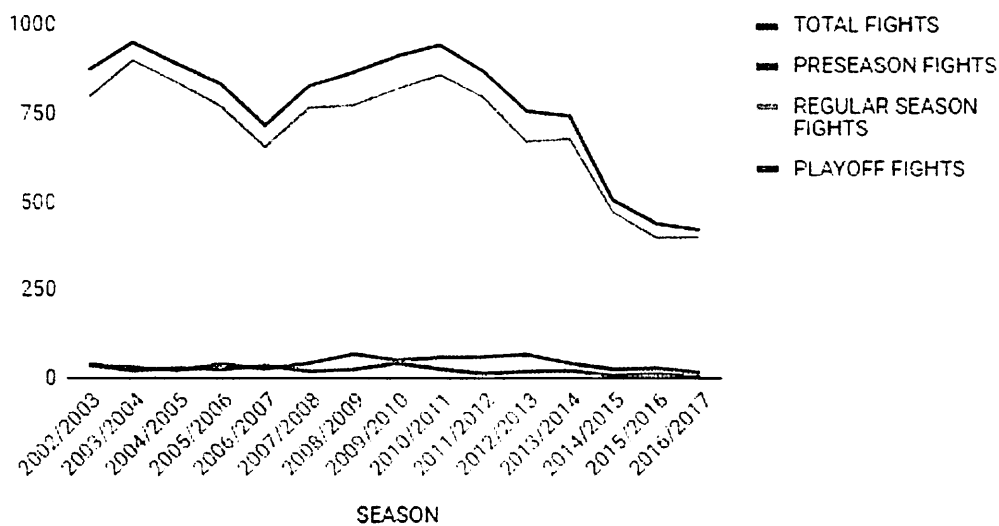
39. The WHL is a major junior ice hockey league based in Western Canada and the Northwestern United States of America. It is one of three leagues that constitute the CHL as the highest level of junior hockey in Canada.
40. The WHL's Clubs are located in the Provinces of Alberta, Manitoba, Saskatchewan, and British Columbia. The WHL also has Clubs located in the States of Washington and Oregon, USA. The teams playing in the WHL consist of the teams owned by the Clubs.
41. The players in the WHL are 16 to 20 years of age.
42. The WHL fight statistics for a 15-year time period as per "*The WHL Fight Card Database*" states the following:

<b>SEASON</b>	<b>TOTAL FIGHTS</b>	<b>PRESEASON FIGHTS</b>	<b>REGULAR SEASON FIGHTS</b>	<b>PLAYOFF FIGHTS</b>
<b>2002/2003</b>	875	37	798	40
<b>2003/2004</b>	954	31	902	21
<b>2004/2005</b>	893	22	841	30
<b>2005/2006</b>	837	39	773	25
<b>2006/2007</b>	719	27	657	35
<b>2007/2008</b>	831	42	769	20
<b>2008/2009</b>	869	68	776	25
<b>2009/2010</b>	915	51	822	42
<b>2010/2011</b>	947	59	862	26
<b>2011/2012</b>	873	61	799	13

<b>2012/2013</b>	761	67	674	20
<b>2013/2014</b>	747	43	682	22
<b>2014/2015</b>	507	26	474	7
<b>2015/2016</b>	441	29	400	12
<b>2016/2017</b>	422	17	401	4

-OR-

**TOTAL FIGHTS, PRESEASON FIGHTS, REGULAR SEASON FIGHTS and PLAYOFF FIGHTS**



43. In 2011, the WHL concluded their Annual General Meeting implementing a 'Seven Point Plan' to reduce blows to the head and concussions to their players. The 'Seven Point Plan' is a comprehensive approach to addressing this important matter and includes:

- i. The adoption of new playing rules;
- ii. More severe suspensions for repeat offenders who cause injury to other players;
- iii. Production of educational videos on the risks of concussions and head injuries;

- iv. Education and seminars for players;
  - v. A mandate on coaches and managers to be more aware and responsible for the health and safety of their players during gameplay; and
  - vi. An expansive review of WHL arena safety standards.
44. In 2012, it was reported that there was a “slight increase” in concussions since the last Annual General Meeting, even with the implementation of the ‘Seven Point Plan’.
45. In 2013, the WHL reported that concussion rates had decreased 20% since the last Annual General Meeting in 2012, and they felt confident that the ‘Seven Point Plan’ was a success. However, instances of fighting were still high across the league.
46. Since the 2013 WHL Annual General Meeting, there appears to be no mention of the ‘Seven Point Plan’ or severities of concussions. Rather, the highlights of the meetings have been refocused on new systems to impress fan bases and the WHL’s 50th season.
47. It was around 2013 is when media outlets and various news sources began to take notice of the severity of concussion rates in hockey, mostly at the junior level. An article published from the ‘Globe and Mail’ on March 8, 2013, and later updated on March 26, 2017, stated that fighting in hockey has long been seen as the cartoon “entertainment” part of professional hockey apart from the main attraction. However, this positive view of fighting in hockey began to shift. Based on an *Angus Reid Public Opinion Survey*, which surveyed the population at large, nearly 78% of Canadians wanted to see fighting banned completely from junior hockey, and a minuscule 7% stated that engaging in on-ice fights was important.
48. Based on the table above, there is reason to believe that the decrease in fights from the 2014/2015 season forward did not come from internal education provided for by the WHL and CHL in their ‘Seven Point Plan’. Rather, it came from the general public’s increasing concern regarding concussions in junior hockey.
49. As the sport shifts away from fighting, the players who fight are no longer being glorified as

they once were. It would be reasonable to assert that a players' decision not to fight is borne of their own choices, and not from the actions of either the WHL or CHL.

### **The Defendants' Rule-Making Powers and Responsibilities**

- 49.1 Hockey Canada oversees the writing and adoption of rules for the safe play of hockey that apply to all of the member amateur leagues under its auspices, including the CHL and its affiliated leagues, including the WHL.
- 49.2 In writing such rules, Hockey Canada sets minimum standards for all of its members. Which is to say, no amateur league which is a member of Hockey Canada is permitted to adopt rules that provide less safety protections than those promulgated by Hockey Canada.
- 49.3 However, amateur leagues which wish to adopt enhanced safety rules, beyond those made by Hockey Canada, are free to do so. That is, Hockey Canada's rules function as a floor, but not a not ceiling, for its members on the adoption of safety rules.
- 49.4 In other words, the CHL and the WHL are free to adopt enhanced safety rules, beyond those imposed on them by Hockey Canada.
- 49.5 The Defendants also have responsibility for the interpretation and enforcement of their rules, and they provide training to players, coaches and referees in respect of those rules. To the extent that rules are not properly followed by players, coaches or referees, whether in letter or in spirit, the Defendants have the ability to adjust the rules, or to conduct training programs for players, coaches and referees in the proper interpretation and enforcement of the rules, or both.
- 49.6 Hockey Canada grants specific carve outs in its rules with respect to the CHL and its affiliated leagues on the issue of fighting, relative to its other members. That is, while other amateur leagues in Canada who belong to Hockey Canada are required to have stricter rules in place to deter fighting, the CHL, and its affiliated leagues, including the

- WHL, are granted exceptional treatment by Hockey Canada, and are permitted to have rules on the issue of fighting in amateur youth hockey which are more permissive, and less of a deterrence to such conduct, than is seen with other member leagues.
- 49.7 In doing so, the Defendants have sought to align their rules regarding fighting in the CHL with established practices in the adult professional hockey league, the NHL, where fighting has long existed.
- 49.8 In adopting rules which permit, tolerate or insufficiently deter fighting and violence in an amateur youth hockey league, or in failing to insist upon a proper interpretation and enforcement of rules that would prevent fighting and violence, the Defendants have acted negligently.
- 49.9 The Class Members who play in the CHL and its affiliated leagues, include teenagers. The Defendants owe a special duty to such young persons to keep them safe from unnecessary injury and violence.
- 49.10 The Defendants have not acted as a reasonably prudent amateur youth sporting league entrusted with the safety of minors.
- 49.11 Other comparable amateur hockey leagues for minors, whether in Canada, the United States or Europe, treat fighting and violence differently. Such comparable leagues do not permit, tolerate or fail to adequately deter fighting and violence in the manner that the Defendants do. The Defendants are an outlier in their approach to fighting and violence relative to other comparable amateur youth hockey leagues around the world.
- 49.12 Moreover, the Defendants approach to fighting and violence in amateur youth sport is an outlier relative to other physical and contact sports involving minors, both in Canada and elsewhere.
- 49.13 The Defendants approach to rules regarding fighting, violence and injury prevention in amateur youth hockey is deficient in at least five respects.

- 49.14 First, the Defendants do not take a sufficiently preventative approach to fighting and violence by requiring under their rules that fights be stopped immediately and proactively at the first instance of violence or anticipated violence. Rather, the approach that the Defendants have long taken is to let fights happen, allow opposing players to beat each other senseless, and only then to address the consequences of the fight after the fact.
- 49.15 Likewise, the Defendants in their role and responsibility for the training of players, coaches and referees in the interpretation and enforcement of the rules, have not properly insisted upon a proactive and preventative approach to fighting and violence. Again, the Defendants allow fights to happen, and then deal with the aftermath.
- 49.16 Other comparable amateur youth sporting leagues take a more proactive and preventative approach to fighting and violence. They seek to stop such behaviour before it starts, or else to intervene at the earliest opportunity, thereby minimizing the risk of injury to players.
- 49.17 Second, the Defendants have not, through their rules, imposed sufficient penalties and deterrents to prevent fighting and violence in amateur youth hockey. The Defendants have typically treated fighting as a five minute penalty. After a short trip to the penalty box, the offending players remain in the game, on the team, in the season, and in the league. This is an insufficient deterrent.
- 49.18 Other comparable amateur youth sporting leagues take a much stricter approach to fighting and violence, and impose harsher penalties, including automatic game suspensions and ejections, team, season or league suspensions and ejections, fines and other penalties.
- 49.19 Third, the Defendants have not responded to fighting as an injury event by establishing proper rules and protocols requiring that players who have just engaged in a fight are immediately sent for proper medical attention and follow-up.
- 49.20 Fourth, the Defendants have failed to periodically review and adjust their rules, and their

interpretation and enforcement, to help reduce unnecessary injuries to Class Members, and they have failed to properly track and monitor injury outcomes for Class Members for the purposes of adjusting those rules, or their interpretation and enforcement, or both, to enhance safety.

49.21 Instead, The Defendants have sought to have their rules parallel those of the adult professional leagues rather than to properly consider and implement rule changes, or changes in their interpretation and enforcement, or both, that maximize safety for their amateur youth players.

49.22 Fifth, the Defendants have not instituted proper, or adequate training and education programs for players, coaches and referees to make clear that fighting and violence will not be tolerated within the CHL and affiliated leagues, and to end a culture within the league that has supported fighting and violence.

49.23 The Defendants have long known that young players like the Plaintiff have occupied the role of “enforcer” within their leagues. These are players whose main function on their teams is to engage in fighting with, and intimidation of, opposing players. Such players have been celebrated by some fans, coaches and media. Such players have also been placed at serious risk of injury.

49.24 The Defendants have had the responsibility and power to end this culture of enforcers. They have negligently failed to do so.

49.25 There have been repeated calls in Canada to reduce the levels of fighting and violence in amateur youth hockey over many years. This has included the following reports to provincial governments:

- (a) “Investigation and Inquiry into Violence in Amateur Hockey”, a Report to the Honourable Rene Brunelle, Ontario Ministry of Community and Social Services, by William R. McMurtry, dated August 21, 1974 (the “McMurtry Report”); and



(b) “Eliminating Violence in Hockey”, a Report by Bernie Pascall, Commissioned by the Honourable Ian G. Waddell, Minister Responsible for Sport in British Columbia, May 2000 (the “Pascall Report”).

49.26 The Defendants have failed to take heed of, and to properly implement the recommendations of the McMurtry Report and the Pascall Report, so as to better protect young players from injuries resulting from fighting and violence.

49.27 The McMurtry Report, in particular, recommended as follows:

“The rules of the game are one of the most important means of creating a suitable environment where skill and positive attitudes are reinforced over the negative aspects such as the tactical use of violence.

There is absolutely no reason that fighting, attempts to intimidate, or using a stick to hurt or intimidate should be tolerated at any time, under any circumstances in hockey, particularly amateur hockey. Nothing short of a game misconduct will be effective in this area. The sooner steps are taken to see that fighting, intimidation, and provocation of an opponent are no longer “part of the game”, the healthier hockey will be.”

49.28 The Defendants have long known that rule changes can be effective in reducing the prevalence of fighting and violence in amateur youth hockey, and in preventing unnecessary injury to Class Members, both from their own experience and from the experiences of other comparable sporting leagues.

49.29 The Defendants have also long understood their ability to shape and change the culture within their league, through training, education and rule changes, but they have failed to take adequate or proper steps to curtail fighting and violence and to prevent unnecessary injury to Class Members.

49.30 The Defendants have, on occasion during the Class Period, made modest adjustments to

their rules but these have been insufficient to properly reduce the incidence of fighting and violence in hockey, and to prevent unnecessary injury to Class Members.

48.31 The Defendants have long known that fighting and violence in amateur youth hockey can lead to serious and permanent injuries, including concussions, broken bones, shattered limbs, torn ligaments, disfigured faces, brain and spinal injuries, and even death.

49.32 The Defendants' rules that permit, tolerate, or insufficiently deter fighting and violence do not provide any benefit to Class Members that might possibly justify the risk of injury to which they are exposed.

49.33 With respect to skills development, it is not necessary for aspiring young hockey players in the CHL to be exposed to fighting in order to have successful professional hockey careers as adults. Many young players from comparable leagues in the United States and Europe go on to enjoy successful adult professional hockey careers without having been exposed to fighting and violence in their amateur youth leagues.

49.34 Moreover, very few players in the CHL ever make it into the NHL. To the extent that fighting in the CHL is somehow training for a professional hockey career as an adult then this is a career that very few Class Members will ever see.

49.35 With respect to financial considerations, to the extent that the Defendants may profit from fan interest in fighting at hockey games, this is unnecessary. Canadian hockey fans have proven themselves to be receptive to watching hockey games played under other rule systems that better deter violence and fighting, such as at the World Junior Hockey Championships and the Olympics.

49.36 Further, to the extent that the Defendants may profit from fan interest in fighting this is not a benefit to the Class Members, who are amateurs and who do not share in such profits.

49.37 Moreover, even if the Defendants offered to pay Class Members to serve as "prize-

fighters” to engage in fighting within hockey, and to voluntarily accept a risk of injury therefrom, Class Members as minors could not legally, and would not in any event, accept such a contract.

49.38 The Defendants’ duty was to create a safe environment for teenagers playing in an amateur youth sporting league. Their rules, training and education should have properly reflected that. Instead, the Defendants have sought to mirror an adult professional league. In doing so, they have breached their duty to Class Members.

49.39 The Plaintiff pleads and relies upon s.83 of the *Criminal Code*, R.S.C. 1985, c.C-46. The Defendants have allowed, permitted, encouraged, promoted, aided, or otherwise been present at, as an aid, second, surgeon, umpire, backer or reporter, bare-knuckle fighting by Class Members which is contrary to s.83 of the *Criminal Code*.

### **Particulars of the Plaintiff**

50. Mr. McEwan is a former CHL hockey player. He played for four years in the CHL from the 2004/2005 season to the 2007/2008 season.

51. At 17 years old, Mr. McEwan entered his first season in the WHL playing for the Seattle Thunderbird in the 2004/2005 season. Mr. McEwan was involved in 18 fights throughout the season, which resulted in trauma to his head leading to swelling, black eyes, loss of consciousness and temporary confusion. After each fight, Mr. McEwan would continue to play. He was not given medical attention.

52. At 18 years old, Mr. McEwan entered the regular season in the WHL playing for the Seattle Thunderbirds for the 2005/2006 season. Mr. McEwan was involved in 19 fights throughout the season and was ‘glorified’ on numerous social media outlets for landing 15 punches in one fight. These fights resulted in trauma to his head leading to swelling and pressure, stitches, loss of consciousness, confusion, a persistent ringing in his ears, and loss of and/or distortion to his vision. After each fight, Mr. McEwan would continue to play. He was not given medical attention.

53. At 19 years old, Mr. McEwan entered the regular season in the WHL playing for the Kelowna Rockets as Assistant Captain for the 2006/2007 season. Mr. McEwan was involved in 25 fights throughout the season and was 'glorified' on numerous social media outlets as holding the best fight with the most punches landed, and was voted the 3rd most entertaining player. The results of these fights included trauma to his head leading to swelling and pressure, cloudiness, and distorted vision. The side effects of his continuous head trauma began to have a noticeable impact in his day-to-day life. He was beginning to experience severe anxiety, mood swings, personality changes and angry outbursts. Mr. McEwan began to consume copious amounts of alcohol in an effort to cope with the physical pain and mental distress he was regularly experiencing.
54. At 20 years old, Mr. McEwan entered the regular season in the WHL playing for the Kelowna Rockets as Team Captain for the 2007/2008 season. Mr. McEwan was involved in 11 fights throughout the season and was given the title by fans for holding "the best fight" when he landed 27 punches in one bout. Mr. McEwan was also given the title of 6th most entertaining fighter with his longest fight lasting 0:47 seconds. These fights resulted in trauma to his head leading to swelling and pressure, as well as a documented concussion after receiving an elbow to the head. The documented concussion led to a 2-week medical leave for recovery. Mr. McEwan also suffered from severed tendons in his wrist due to a direct impact from a skate, and received surgery to repair the severed tendons, which led to a 3-month medical leave. Mr. McEwan began experiencing severe depression, anxiety, mood swings, memory loss, confusion, angry outbursts, and suicidal thoughts. He was prescribed pain medication. This was his last season playing in the WHL.
55. During his time in the CHL, Mr. McEwan was involved in 72 fights. Notably, he was involved in 25 fights in the 2006/2007 season alone when he played for the Kelowna Rockets of the WHL.
56. At all material times, Mr. McEwan relied on the Defendants to ensure his safety, health and well-being.

57. Had Mr. McEwan been made aware by the Defendants of the long-term side effects and health implications of concussive and sub-concussive impacts to the head, he would not have involved himself in so many on ice fights.
58. During his time in the CHL, Mr. McEwan was involved in 72 fights. Notably, he was involved in 25 fights in the 2006/2007 season when he played for the Kelowna Rockets of the WHL. These fights lead to numerous surgeries and broken bones, as well as severe and escalating trauma to his head. His anxiety, depression, mood swings, confusion and suicidal thoughts escalated, leading to what he describes as “manic behaviour” and symptoms of Chronic Traumatic Encephalopathy (“CTE”).
59. On several occasions, Mr. McEwan lost consciousness on the ice during or after a fight.
60. In 2016, Mr. McEwan began to notice the long-term effects of the numerous impacts to his head. His symptoms of CTE began to increase including symptoms of anxiety, stress, severe mood swings, depression, anger, fatigue and suicidal thoughts. These symptoms are still active presently.
61. At all material times the Defendants should have known, or ought to have known that multiple sub concussive and concussive blows to the head would lead to long term brain injury including but not limited to memory loss, dementia, depression, and CTE and its related symptoms.
62. Mr. McEwan has stated that fighting was not just condoned and tolerated by the CHL, coaches, and managers of the teams he had played for, but was encouraged, praised and rewarded.

### **Chronic Traumatic Encephalopathy and Concussions**

63. CTE is defined as:

*“A neurodegenerative disease found in people who have had multiple head injuries. Symptoms may include behavioral problems, mood problems, and problems with thinking.*

*This typically does not begin until years after the injuries. It often gets worse over time and can result in dementia.”*

64. CTE, a catastrophic disease long associated with boxers, results when a toxic protein, Tau, accumulates in the brain. The Tau kills brain cells, and leads to symptoms such as cognitive dysfunction, memory loss, sleeplessness, depression, diminished impulse control, episodes of anger, dementia, among other symptoms. Until recently, CTE could only be confirmed through autopsy. Tau proteins are released whenever concussions occurs.
65. CTE is found in individuals with a history of repetitive concussions. Conclusive studies have shown this condition to be prevalent in retired professional hockey players who have a history of brain injury.
66. Concussion is defined as:

*“Concussion - also known as mild traumatic brain injury (TBI) - is defined as ‘A complex pathophysiological process affecting the brain, induced by traumatic biomechanical forces. ‘Typically, concussion results in rapid-onset neurophysiologic and neurologic dysfunction that resolves in a spontaneous manner over a relatively short period.’”*

67. It has been known for decades that multiple blows to the head can lead to long-term brain injury, and can lead to memory loss, dementia, depression, CTE, and its related symptoms.
68. A quote from the Complete Concussion Management Inc. (CCMI), a research-based concussion care network that provides education and training to multidisciplinary healthcare practitioners as well as comprehensive assessments, treatments and rehabilitation for athletes and concussion patients states that:

*“Concussions are difficult to diagnose because symptoms may not be present immediately following an impact, and the symptoms are like those of other common injuries such as whiplash. Healthcare practitioners and all those involved in concussion care should err on the side of caution. If there is a significant impact and at least one*

*concussion symptom, an athlete should be removed from play and assessed by a licensed healthcare practitioner with training in concussion management. When in doubt, sit them out!”*

69. Every impact to the brain is dangerous. Both concussive and sub concussive events cause permanent brain damage. During practice and games, a CHL player can sustain close to one thousand or more hits to the head in one season without any documented incapacitating concussion. Such repeated blows result in permanently impaired brain function.
70. Unbeknownst to the Plaintiffs, scientific evidence has for decades linked brain trauma to long-term neurological problems.
71. The Defendants knew, or ought to have known of the growing scientific evidence and its compelling conclusion that persons who sustain repetitive concussive events, sub concussive events, or other brain injuries are at a significantly greater risk for chronic neurodegenerative illness and disabilities both during their hockey career and, especially, later in life.
72. Scientists and doctors in Canada, the United States, and across the world have published endless articles in well-established medical and scientific journals conclusively establishing the link between brain injuries and sub concussive and concussive impacts suffered by, among others, hockey players.
73. Medical evidence has shown that symptoms of a concussion can reappear hours or days after the injury, indicating that the injured party has not healed from the initial blow.
74. According to neurologists, once a person suffers a concussion, the person is up to four times more likely to sustain a second one and each successive concussion increases the seriousness of health risks and the likelihood of future concussions. Additionally, after suffering even a single concussion, a lesser blow may cause additional injury, meaning the injured person requires more time to recover each time they sustain a concussion.
75. Post-concussion syndrome, which may last days to years after someone suffers a concussion,

generally causes depression, irritation, poor concentration, memory loss, mood swings, headaches, impaired speech, impaired balance, dizziness, seizures, blurred vision, and general malaise.

76. Second-impact syndrome occurs when an athlete still recovering from a prior concussion experiences a second, force-related event to the brain. Second-impact syndrome can lead to coma, permanent brain-function loss, or death.
77. Neuropathologist Dr. Ann McKee, a Professor of Neurology and Pathology at the Boston University School of Medicine, diagnosed CTE in the brains of four former junior hockey players who never advanced to the NHL. All four committed suicide before they reached the age of 30. She stated that it is “willful ignorance” to not take the symptoms of degenerative brain diseases, such as CTE, seriously.

### **Negligence**

78. The Plaintiff's injuries were caused or contributed to by the negligence and or breach of statutory duty of the CHL, their employees, servants and agents, singularly or in combination, the particulars of which include:
  - a) Failing to warn CHL teams across Canada and the United States of the long term medical risks associated with repetitive head trauma during CHL games and practices;
  - b) Failing to follow and or launch any sufficient concussion awareness campaign when they knew or ought to have known of the risks of latent neurological damage arising from repetitive head trauma;
  - c) Failing to enforce any sufficient concussion protocol when they knew or ought to have known of the heightened risks of latent neurological damage arising from repetitive head trauma;
  - d) Failing to warn the Plaintiff of the long term medical risks associated with



repetitive brain trauma;

- e) Ignoring or being willfully blind to the risks of neurological damage arising from repetitive head trauma during CHL games and practices;
- f) Promoting and or glorifying increased violence between players including but not limited to fighting;
- g) Allowing players to play while they knew or ought to have known that the players were suffering from the symptoms of concussion and or repetitive brain trauma;  
and
- h) Failing to require CHL teams to report to parents and/or billet families when a player sustained a head injury in a game or practice-and;
- i) Drafting and issuing rules which failed to properly and sufficiently deter and prevent fighting and violence in the CHL, and to otherwise reduce the risk of unnecessary injury to Class Members;
- (j) Failing to properly monitor and adequately adjust rules over time in order to reduce the incidence of fighting and violence in the CHL and to otherwise reduce the risk of unnecessary injury to Class Members;
- (k) Failing to institute adequate training and education programs for players, coaches and referees in the proper interpretation and enforcement of rules to reduce fighting, violence and injury in the CHL;
- (l) Failing to institute adequate training programs for players, coaches and referees to end a culture of fighting and violence in the CHL and to otherwise reduce the risk of unnecessary injury to Class Members; and
- (m) Failing to act as a reasonably prudent amateur sporting league for minors in taking all necessary steps in the development and enforcement of rules regarding

fighting, hockey and concussions so as to protect Class Members from unnecessary risk of injury.

79. The Plaintiff's injuries were caused or contributed to by the negligence and or breach of statutory duty of the WHL; their employees, servants and agents, singularly or in combination, the particulars of which include:

- a) Failing to warn the Plaintiff of the long term medical risks associated with repetitive head trauma during games and practices;
- b) Failing to warn the Plaintiff of the connection between CTE and sustaining multiple sub-concussive and concussive head trauma;
- c) Ignoring or being willfully blind to the risks of latent neurological damage arising from repetitive head trauma during games and practices;
- d) Allowing players to play while they knew or ought to have known that the players were suffering from the symptoms of concussion and/or repetitive brain trauma;
- e) Failing to provide any or any adequate medical attention or assistance when they knew or ought to have known that the players were suffering from symptoms of concussion and/or repetitive brain trauma;
- f) Failing to warn players, parents, and billet families of the signs and symptoms of concussion and repetitive brain trauma;
- g) Failing to advise parents and/or billet families when a player sustained a head injury in a CHL game or practice;
- h) Ignoring and or being willfully blind to the risk of latent neurological damage arising from repetitive head trauma during CHL games and practices; ~~and~~
- i) Promoting or glorifying violence by and between players-and

- j) Drafting and issuing rules which failed to properly and sufficiently deter and prevent fighting and violence in the WHL and to otherwise reduce the risk of unnecessary injury to Class Members;
  - (k) Failing to properly monitor and adequately adjust rules over time in order to reduce the incidence of fighting and violence in the WHL and to otherwise reduce the risk of unnecessary injury to Class Members;
  - (l) Failing to institute adequate training and education programs for players, coaches and referees in the proper interpretation and enforcement of rules to reduce fighting, violence and injury in the WHL;
  - (m) Failing to institute adequate training programs for players, coaches and referees to end a culture of fighting and violence in the WHL and to otherwise reduce the risk of unnecessary injury to Class Members; and
  - (n) Failing to act as a reasonably prudent amateur sporting league for minors in taking all necessary steps in the development and enforcement of rules regarding fighting, hockey and concussions so as to protect Class Members from unnecessary risk of injury.
80. The Plaintiff's injuries were caused or contributed to by the negligence or breach of statutory duty of Hockey Canada; their employees, servants and agents, singularly or in combination, the particulars of which include:
- a) Failing to launch any sufficient concussion awareness campaign when they knew or ought to have known of the risks of neurological damage arising from repetitive head trauma;
  - b) Failing to implement and or enforce any sufficient concussion protocol when they knew or ought to have known of the heightened risk of latent neurological damage arising from repetitive head trauma;

- c) Failing to warn the WHL, CHL, parents, billet families and/or the Plaintiff of the long term medical risks associated with repetitive head trauma;
- d) Failing to ensure the enforcement of ice hockey rules of play thereby increasing the risk of head trauma;
- e) Failing to change ice hockey rules of play when Hockey Canada knew or ought to have known of the damages arising from repetitive head trauma;
- f) Ignoring or being willfully blind to the risks of latent neurological damage arising from repetitive head impacts during CHL games and practices; and
- g) Promoting and or glorifying violence between players including but not limited to fighting.
- j) Drafting and issuing rules for its members which failed to properly and sufficiently deter and prevent fighting and violence in the CHL and its affiliated leagues and to otherwise reduce the risk of unnecessary injury to Class Members;
- (k) Failing to properly monitor and adequately adjust rules over time in order to reduce the incidence of fighting and violence in the CHL and its affiliated leagues and to otherwise reduce the risk of unnecessary injury to Class Members;
- (l) Failing to institute adequate training and education programs for players, coaches and referees in the proper interpretation and enforcement of rules to reduce fighting, violence and injury in the CHL;
- (m) Failing to institute adequate training programs for players, coaches and referees to end a culture of fighting and violence in the CHL and to otherwise reduce the risk of unnecessary injury to Class Members; and
- (l) Failing to act a reasonably prudent amateur sporting league for minors in taking all necessary steps in the development and enforcement of rules regarding

fighting, hockey and concussions so as to protect Class Members from unnecessary risk of injury.

### **Particulars of Negligence**

79. Within the CHL the players agree to provide their services under the supervision and control of the league and the club. The players receive benefits from the league and the club such as a salary, education, medical and professional support services.
80. The CHL has the discretion or power over the provision of education, medical, and professional support services and the manner in which they provide or deliver those services has a potential to significantly affect the careers and health of the players.
81. The coaching and medical staff of each club, within the CHL, failed to treat individuals or follow appropriate procedures to address concussive or sub concussive impacts.

### **Breach of Fiduciary Duty**

82. The CHL has a fiduciary relationship to the players within its leagues.
83. The CHL breached its fiduciary obligation to the players in regard to the provision of proper educational, medical and professional support services, the particulars of which include (*inter alia*):
  - a) Failing to provide proper education to the players about the risks associated with concussions and sub concussive impacts, or the effects and importance of treatment and concussion protocols;
  - b) Failing to provide proper education to the parents and billet families of the risks associated with concussions and sub concussive impacts, or the effects and importance of treatment and concussion protocols;
  - c) Failing to provide proper education to the coaches, referees, trainers, medical professionals, professional support services, and the public, about the risks

associated with concussions and sub concussive impacts, or the effects and importance of treatment and concussion protocols;

- d) Failing to establish rules, controls, guidelines, and standards for players, coaches, referees, trainers, medical professionals and other professional support services to follow with respect to the diagnosis and treatment of concussions and sub concussive impacts; ~~and~~
- e) Glorifying and encouraging conduct and culture which perpetuated and exacerbated the incidence, concealment, negative stigma, and lack of treatment related to concussive and sub concussive injuries, reduced the likelihood of diagnosis or treatment. ~~and~~
- (f) Drafting and issuing rules which failed to properly and sufficiently deter and prevent fighting and violence in the CHL and its affiliated leagues and to otherwise reduce the risk of unnecessary injury;
- (g) Failing to properly monitor and adequately adjust rules over time in order to reduce the incidence of fighting and violence in the CHL and its affiliated leagues and to otherwise reduce the risk of unnecessary injury to Class Members;
- (h) Failing to institute adequate training and education programs for players, coaches and referees in the proper interpretation and enforcement of rules to reduce fighting, violence and injury in the CHL;
- (i) Failing to institute adequate training programs for players, coaches and referees to end a culture of fighting and violence in the CHL and to otherwise reduce the risk of unnecessary injury to Class Members; and
- (j) Failing to act as a fiduciary guardian of minors in taking all necessary steps in the development and enforcement of rules regarding fighting, hockey and concussions so as to protect Class Members from an unnecessary risk of injury.

### **Vicarious Liability**

82. The Plaintiff pleads that the Defendants can only act through its employees, directors, officers and agents and who are vicariously liable for their acts and omissions as hereinafter pleaded. The acts and omissions particularized and alleged in this claim to have been done by the Defendant was authorized, ordered or done by the Defendant's employees, directors, officers and agents while engaging in the management, direction, control and transaction of the Defendant's business and are therefore acts and omissions for which the Defendant is vicariously liable.

### **Damages**

83. As a result of the negligence of the Defendants, the Plaintiff and other Class Members have suffered the following damages:

- a) Personal and physical injury, including short-term and long-term effects of sub concussive and/or concussive impacts to the head;
- b) Psychological injuries as a consequence of their physical injuries;
- c) Special damages for out-of-pocket expenses including costs associated with rehabilitation treatment and medical expenses;
- d) Cost of future care and services to treat resulting physical and psychological injuries resulting from head trauma;
- e) Loss of income both past and future;
- f) Loss of past and future housekeeping capacity;
- g) As a result of injuries and effects, the Health Care Costs Class received healthcare services, health services, insured services, treatment or other services and became beneficiaries of such services pursuant to the healthcare legislation of the Province or Territory in which each Class Member resided or received

treatment. A claim is hereby advanced for the cost of such services under the applicable Provincial and Territorial Legislation including the *Health Care Costs Recovery Act*, S.B.C. 2008, *Health Services and Insurance Act*, R.S.N.S. 1989, c. 197, *Health Insurance Act*, R.S.O. 1990 c. H-6, *Health Care Insurance Plan Act*, R.S.Y. 2002 c-107, *Hospital Insurance and Social Services Administration Act*, R.S. N.W.T., 1988 c. T-3, and the regulations thereunder and amendments thereto; and

- h) Such further and other damages the particulars of which will be provided prior to trial.

84. In accordance with the *Class Proceedings Act*, R.S.B.C. 1996, c. 50 the Plaintiff and other class members are also entitled to recover, as damages or costs, the cost of administering the plan to distribute the recovery of this action.

85. The Plaintiff relies on the following in support of his claim for punitive and aggravated damages against the Defendants:

- a) The Defendants knew, or ought to have known of the long term harmful effects of multiple concussion and sub-concussion trauma; ~~and~~
- b) The Defendants failed to adequately disseminate to the Plaintiff the relevant health information they possessed regarding multiple concussions leading to a long-term brain injury including, but not limited to, memory loss, dementia, depression and CTE related symptoms, showing contempt for the Plaintiff's rights by unnecessarily endangering the Plaintiff's life; and
- c) The Defendants' conduct has been egregious and has shown a callous disregard for the health and safety of Class Members such that an award of punitive damages is justified.



## **PART 2: RELIEF SOUGHT**

86. The Plaintiff seeks an order certifying this proceeding as a class proceeding pursuant to the *Class Proceeding Act*, R.S.B.C. 1996, c.50 (the “*Class Proceeding Act*”).
87. The Plaintiff claims on his own behalf and on behalf of all class members against the Defendants for:
- a) General, aggravated, exemplary, and/or punitive damages, assessed:
    - I. In the aggregated pursuant to section 29(1) of the *Class Proceeding Act*; or
    - II. As the court may otherwise direct;
  - b) Special damages;
  - c) Interest pursuant to the *Court Order Interest Act* R.S.B.C. 1996 c. 79;
  - d) Costs of this action; and,
  - e) Such further and other relief as this Honourable Court may deem just and meet.
88. In respect to the injuries the Plaintiff and Health Care Costs Class members sustained as a result of the negligence of the Defendants, the Plaintiff claim as against the Defendants, jointly and severally, damages pursuant to the *HCCRA* in the amount equal to:
- a) The past cost of health care services; and
  - b) The future cost of health care services.

## **PART 3: LEGAL BASIS**

1. The Plaintiff pleads and will rely on the *Class Proceeding Act*, R.S.B.C. 1996, c. 50, as amended, The *Negligence Act*, R.S.B.C. 1996, c. 333., as amended, the *Family Law Act*, S.B.C.

2011, c. 25 as amended and other similarly applicable legislation, and the *Court Order Interest Act*, R.S.B.C. 1996, c. 79 as amended and s.83 of the *Criminal Code*, R.S.C. 1985, c.C-46.

2. Pursuant to ss. 2 and 17 of the *HCCRA*, members of the Health Care Costs Class claim as damages from the Defendants, jointly and severally, the past cost of health care services and the future cost of health care services.

Plaintiff's address for service: Wishart Law Corporation  
#1010 – 570 Granville Street  
Vancouver, BC V6C 3P1  
and  
Klein Lawyers LLP  
1385 West 8<sup>th</sup> Ave, Suite 400  
Vancouver, BC V6H 3V9

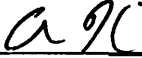
Fax number for service (if any): Service by fax is not accepted

E-mail address for service: Service by e-mail is not accepted

Place of trial: Vancouver, British Columbia

The address of the registry is: 800 Smithe Street  
Vancouver, BC V6Z 2E1

Dated: December 14, 2018

  
\_\_\_\_\_  
Signature of the Plaintiff's Lawyer  
Robyn Wishart

Rule 7-1(1) of the *Supreme Court Civil Rules* states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
- (a) prepare a list of documents in Form 22 that lists
- (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and,
- (ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

**Form 11 (Rule 4-5 (2) )**

**ENDORSEMENT ON ORIGINATING PLEADING OR PETITION  
FOR SERVICE OUTSIDE BRITISH COLUMBIA**

*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]*

The Plaintiff claim(s) the right to serve this pleading on the Defendants outside British Columbia on the ground that this action concerns a tort committed in British Columbia, *enumerated in section 10 of the Court Jurisdiction and Proceedings Transfer Act, on which the plaintiff/petitioner intend to rely.*

**APPENDIX**

**PART 1: CONCISE SUMMARY OF NATURE OF CLAIM**

The Plaintiff and the Class Members claim against the Defendants for pain and suffering, general damages, special damages, costs and interest arising out of a sport injury. The Plaintiff and the Class Members have suffered and continues to suffer damage, loss and expense due to the Defendants' negligence.

**PART 2: THIS CLAIM ARISES FROM THE FOLLOWING**

A personal injury arising out of:

- A motor vehicle accident
- A medical malpractice
- Another cause

A dispute concerning:

- Contaminated sites
- Construction defects
- Real property (real estate)
- Personal property
- The provision of goods or services or other general commercial matters
- Investment losses
- The lending of money
- An employment relationship
- A will or other issues concerning the probate of an estate
- A matter not listed here

**PART 3: THIS CLAIM INVOLVES**

- A class action
- Maritime law
- Aboriginal law
- Constitutional law
- Conflict of laws
- None of the above
- Do not know

**PART 4: ENACTMENTS RELIED ON**

1. *Class Proceeding Act*, R.S.B.C. 1996, c. 50
2. *Negligence Act*, R.S.B.C. 1996 c. 333
3. *Court Order Interest Act*, R.S.B.C. 1996 c. 79