

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

SAMUEL BERG

Plaintiff

and

CANADIAN HOCKEY LEAGUE, ONTARIO MAJOR JUNIOR HOCKEY LEAGUE, ONTARIO HOCKEY LEAGUE, WESTERN HOCKEY LEAGUE, QUEBEC MAJOR JUNIOR HOCKEY LEAGUE INC., WINDSOR SPITFIRES INC., LONDON KNIGHTS HOCKEY INC., BARRIE COLTS JUNIOR HOCKEY LTD., BELLEVILLE SPORTS AND ENTERTAINMENT CORP., ERIE HOCKEY CLUB LIMITED, GUELPH STORM LIMITED, KINGSTON FRONTENAC HOCKEY LTD., 2325224 ONTARIO INC., NIAGARA ICEDOGS HOCKEY CLUB INC., BRAMPTON BATTALION HOCKEY CLUB LTD., GENERALS HOCKEY INC., OTTAWA 67'S LIMITED PARTNERSHIP, THE OWEN SOUND ATTACK INC., PETERBOROUGH PETES LIMITED., COMPUWARE SPORTS CORPORATION, SAGINAW HOCKEY CLUB, L.L.C., 649643 ONTARIO INC c.o.b. as SARNIA STING, SOO GREYHOUNDS INC., McCRIMMON HOLDINGS, LTD. AND 32155 MANITOBA LTD., A PARTNERSHIP c.o.b. as BRANDON WHEAT KINGS., 1056648 ONTARIO INC., REXALL SPORTS CORP., EHT, INC., KAMLOOPS BLAZERS HOCKEY CLUB, INC., KELOWNA ROCKETS HOCKEY ENTERPRISES LTD., HURRICANES HOCKEY LIMITED PARTNERSHIP, PRINCE ALBERT RAIDERS HOCKEY CLUB INC., BRODSKY WEST HOLDINGS LTD., REBELS SPORTS LTD., QUEEN CITY SPORTS & ENTERTAINMENT GROUP LTD., SASKATOON BLADES HOCKEY CLUB LTD., VANCOUVER JUNIOR HOCKEY LIMITED PARTNERSHIP, 8487693 CANADA INC., CLUB DE HOCKEY JUNIOR MAJEUR DE BAIE-COMEAU INC., CLUB DE HOCKEY DRUMMOND INC., CAPE BRETON MAJOR JUNIOR HOCKEY CLUB LIMITED, LES OLYMPIQUES DE GATINEAU INC., HALIFAX MOOSEHEADS HOCKEY CLUB INC., CLUB HOCKEY LES REMPARTS DE QUEBEC INC., LE CLUB DE HOCKEY JUNIOR ARMADA INC., MONCTON WILDCATS HOCKEY CLUB LIMITED, LE CLUB DE HOCKEY L'OCEANIC DE RIMOUSKI INC., LES HUSKIES DE ROUYN-NORANDA INC., 8515182 CANADA INC. c.o.b. as CHARLOTTETOWN ISLANDERS, LES TIGRES DE VICTORIAVILLE (1991) INC., SAINT JOHN MAJOR JUNIOR HOCKEY CLUB LIMITED, CLUB DE HOCKEY SHAWINIGAN INC., and CLUB DE HOCKEY JUNIOR MAJEUR VAL D'OR INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*, S.O. 1992, C.6

AFFIDAVIT OF LUKAS WALTER (Sworn March 11, 2015)

I, Lukas Walter, of the Township of Langley, in the Province of British Columbia, make oath and say:

INTRODUCTION

1. I am the proposed representative plaintiff in class actions filed in the provinces of Alberta and Quebec based on the same issues as those raised in the within action. I have retained the law firm of Charney Lawyers to act for me in those actions.
2. I am a former player in both the Western Hockey League ("WHL") and in the Quebec Major Junior Hockey League ("QMJHL") and have personal knowledge of the facts to which I hereinafter depose. Where my knowledge is based on information obtained from others, I have so indicated and believe that information to be true.

MY BACKGROUND

3. I am currently 22 years old and I currently live in Langley B.C. I work for my family's exotic meat supply and butcher business.
4. Ever since I can remember I have played the game of hockey. I was motivated to play hockey professionally in the NHL or some other professional leagues such as the AHL. In order to do so, I competed in various leagues that operated around the Canadian Pacific South West. For the 2010-2011 season, at the age of 17, I played for the North Delta Devils (the "Devils"), a team playing in the Pacific Junior Hockey League, a junior hockey league with 10 teams all located within the south west area of British Columbia.
5. While playing for the Devils, my coach, who was also a scout for the Portland Winterhawks, a team playing in the WHL located in Portland, Oregon, invited me to attend the training camp for the team starting in August for the 2011-2012 season. Attached as **Exhibit "A"** is a copy of the undated invitation to the Winterhawks' training camp.

6. I was excited to hear this news and when August came around, I went down to Portland to attend the training camp. I participated in the camp, practicing with the team and other hopeful players. I played three pre-season games with the team. Eventually I was approached by Mike Johnston, the GM/Head Coach of the Winterhawks who advised me that although the Winterhawks wanted to sign me and add me to their roster, they could not because another team playing in the WHL, the Tri-City Americans ("Americans") located in Kennewick, Washington, had already placed me on their protective player list and that no other WHL team could sign a player agreement with me.
7. The Americans are owned by the defendant Top Shelf Entertainment, Inc. a defendant in the Ontario Superior Court action.
8. As soon as we found out that I was on the Americans' protective player list, I was placed on the next flight to Kennewick, Washington to meet with the team.

THE WHL STANDARD PLAYER AGREEMENT

9. Shortly after arriving in Kennewick, on or about September 16, 2011, at the age of 18, I signed a WHL standard player agreement form with the Americans (the "Contract"). In exchange for me providing the services under the Contract, the team agreed to pay me a \$200 monthly fee (which works out to about \$50/week). The Contract was also signed by Bob Tory, the Governor, General Manager, and owner of the Americans. A copy of the Contract is attached hereto as **Exhibit "B"**.
10. When I signed the Contract, I was informed by representatives from the Americans, including Mr. Tory, that this was the standard player agreement that all of the players in the WHL signed. I was told that if I wanted to play for the Americans, I would need to sign this standard player agreement.
11. When I signed the Contract, I had already completed high school in Langley. I was not enrolled in any classes or educational programs at the time I signed the Contract.

12. The reason I signed the Contract was so that I could increase my chances of eventually playing hockey professionally in the NHL or other leagues. From my review of the NHL entry drafts, I do verily believe, and believed at the time, that playing in the WHL provided me with one of the best opportunities to play in the NHL. I do verily believe that based on my review of the NHL entry drafts and conversations with team mates, approximately 5-10% of the players in the WHL end up signing NHL contracts.
13. From my conversations with my other teammates, I do verily believe that they also signed under similar circumstances and for similar goals - to eventually play in the NHL. When players are presented with the standard player agreement, there is no opportunity to negotiate wages. I was informed that the \$200/month fee was standard and could not be increased. You either sign the standard player agreement or you cannot pursue your dreams to be an NHL player by playing in the CHL.
14. The Contract I signed with the Americans was the standard player agreement that was provided to me by the Americans.
15. In order for me, as a Canadian citizen, to play in the United States, I was to be covered under a work permit issued to the Americans. I cannot locate the permit for the 2011-2012 season, however, the I-797B, Notice of Action form issued by the U.S. Department of Homeland Security for the 2012-2013 season and listing me as a "worker" is attached hereto as **Exhibit "C"**.

OVERVIEW OF MY TIME PLAYING HOCKEY IN THE WHL AND QMJHL

16. Upon arriving in Kennewick and signing the Contract, I was placed with a billet family. The billet family lived in Kennewick, were hockey fans, and were enthusiastic about having Americans' players live with them throughout the hockey season. They provided me with accommodations, meals and support. In addition to billeting me, the family also billeted another veteran player for the Americans. He had a car that was used to drive us to practices, games, and any events that we were required to attend. I was told by the team and do verily believe that the billets received some funds in order to offset the costs

of having two competitive hockey players stay with them. While I was there, the billets also received meat from a sponsor of the team to offset the costs of our food.

17. As soon as I arrived in Kennewick, I immediately began training, playing games and attending promotional events with the Americans. In the two seasons that I played for the Americans, I played a total of 117 games with the Americans plus several pre-season games and playoff games. My statistics and the record of the games I played in in the WHL are found on the WHL's website and are attached hereto as **Exhibit "D"**.
18. The team has a roster of 25 players, but only 18 may dress for a game. Therefore, the statistics do not account for the games which I attended with the team but in which I did not play. This mostly occurred in my first season in 2011-2012. I played almost every game in the 2012-2013 season with the Americans. Teams in the WHL are limited to only having three 20-year-old players. All of the other players on the Americans were 16-19 years old, including only five or six 16 year olds. The other teams in the WHL had similarly aged rosters.
19. While some of the Americans players were still in high school, approximately 15-17 players, including myself, were not in school or enrolled in any kind of educational program such as university, college, or a trade school. I also did not have any other part-time job or other source of income. My time in Kennewick was devoted to playing hockey for the Americans.
20. While I was on the team in the 2011-2012 season, my teammate and co-billet, Brendan Shinnimin ("Shinnimin") was signed, undrafted, by the Phoenix Coyotes of the NHL to a three-year contract. Attached as **Exhibit "E"** is a press release from the WHL website announcing the signing of that contract.
21. Shinnimin was excited about this prospect and I do verily believe based on conversations with him that he received a significant signing bonus from the NHL team on signing the contract. After signing the contract, he continued playing with the Americans and completed the season with us. Since then he has played with both the Phoenix Coyotes

and the Portland Pirates, the Coyotes AHL farm team. Shinnimin's career statistics from hockeydb.com, a website listing statistics for players in various leagues is attached hereto as **Exhibit "F"**.

22. I played for the Tri-City Americans for two complete seasons and left the team after the 2012-2013 season was over in March 2013. Throughout the 2 seasons I had amassed a debt to my parents of approximately \$4,000/season because I relied on them to purchase day to day items like additional food, cell phone bills with an international calling plan, and gas for my own vehicle which I drove in the 2012-2013 season. In the 2012-2013 season, because I had the vehicle, the Americans provided me with an additional \$20 every 2 weeks. My commute to the arena for practices and games took 15 minutes each way. The \$20 every two weeks I received for gas money was insufficient to cover my gas expenses associated with team related events such as attending practices, games, or promotional events.
23. Following the 2012-2013 season, I was told by someone from the Americans that I was not going to make the team for the 2013-2014 season. I therefore asked them to drop me from the protected player list so that I could speak with other teams in the league and specifically attend the Portland Winterhawks' training camp. The Americans agreed to do so.
24. Before I attended the Portland camp, I kept receiving calls from someone from the St. John Sea Dogs ("Sea Dogs"), a team playing in the QMJHL. I had ignored these calls as I was driven to make it onto the Portland team. After training camp had finished, the coach from the Portland team told me that I would not be making the team but that his friend, Mike Kelly, from the Sea Dogs was interested in me and that I should call him. I called Mr. Kelly and he expressed interest in signing me onto their team. I flew to St. John, New Brunswick and signed the 20-Year-Old Player contract with the Sea Dogs, a team owned by the defendant Saint John Major Junior Hockey Club Ltd., on September 10, 2013. The contract was signed by myself and Mike Kelly, the head coach and

general manager of the Sea Dogs at that time. My contract with the Sea Dogs, which was also a standard form contract, is attached hereto as **Exhibit "G"**.

25. On signing this player agreement, I understood that I would be one of only three players that were 20-years old that could play for the team. I earned a salary that was more than the other players, but which was still limited pursuant to the QMJHL's regulation R-11 "Rights and Obligations of Players", attached hereto as **Exhibit "H"**.
26. Despite being paid more than the players on the Sea Dogs who were not 20 years old, I had no additional responsibilities. In fact, many of the rookies, who were only 16 years old, had to work harder by helping load the buses for road trips and were forced to sleep on the floor of the bus on overnight bus trips. They did this additional work despite only being paid \$50 or \$60 per week.
27. My game by game statistics for my time playing with the Sea Dogs is attached hereto as **Exhibit "I"**.

THE LIFE OF A MAJOR JUNIOR HOCKEY PLAYER

28. The time I devoted to training, playing and practicing hockey with the Americans and the Sea Dogs was considerable. The seasons in the WHL consisted of 72 games and 68 games in the QMJHL. The games in the WHL were played at a frequency of about 3 times/week against 21 other teams spread across Washington, Oregon, B.C., Alberta, Saskatchewan and Manitoba. In the QMJHL, our games were played at about the same frequency against 17 other teams spread across Quebec, New Brunswick, P.E.I., and Nova Scotia.
29. Aside from travelling and playing the games, my teammates and I would train pretty much every single day we did not have a game with the exception of one day a week. We also attended various promotional events. In effect, I was providing my time and services as a hockey player to the teams 6-7 days a week for as long as I played for both teams. These same services were provided by all players on the teams I played for.

30. While I played for the Americans, I recall that we attended several promotional events throughout the year, at a rate of about 1-2 times per week for 2-4 hours at a time. We would be required to stand in front of big box stores such as Target and ask people in the community to donate money to the team's scholarship fund. We would also attend events at restaurants and other community events to sign autographs and speak with fans. We were unable to leave until we were told that it was okay to go by team staff.
31. A typical weekday for me while I was a player on the Americans involved being at practice by approximately 9 a.m. and workout and stretch for about an hour. We would then have a break until approximately noon. Around noon we would have an hour to hour and a half practice on ice. Then we would stretch, and sometimes have to review video after practice. Sometimes, if we had just had a bad game for example, we would have another workout after we reviewed video. Typically we were done training by around 4 p.m. after which time we might have to attend a promotional event. My time on non-game days devoted to team related services was therefore about 5 hours plus whatever time we spent attending promotional events which could last several hours.
32. This was my typical routine for days on which there were no games.
33. On game days, the routine changed. I would have to be at the rink at about 9 a.m. to stretch. Sometimes we would skate, but most of the time we would do a stretch and workout for about one hour. We would then review video for another 45 minutes to an hour. We would be dismissed to go home to eat and rest up and be required to be back at the rink three hours before game time, about 4 p.m. if it was a 7 p.m. game. Again, we would stretch, warm up and get our equipment ready. We would have a team meeting and then get on the ice to skate for a few minutes before the puck dropped. After the game we would have a team meeting, do some stretches and then return home. On game days, I would not get back to my billet's home until about 11 p.m. A game day meant about a 8-9 hour day devoted to team related activities.

34. Therefore, in weeks without road trips, I provided about 43-50 hours per week providing my services as a hockey player to the Americans in attending practices, games, and promotional events.
35. During my time with the both teams we went on several road trips. I recall that some of the road trips that I went on with the Americans lasted sometimes up to two weeks. For example in the 2012-2013 season, the Americans completed the following road trip:
- i. Everett, Washington on October 7, 2012 (~4 hour drive from Kennewick)
 - ii. Brandon, Manitoba on October 13, 2012 (~24 hour drive from Everett)
 - iii. Moose Jaw, Saskatchewan on October 14, 2012 (~4.5 hour drive from Brandon)
 - iv. Prince Albert, Saskatchewan on October 16, 2012 (~4 hour drive from Moose Jaw);
 - v. Saskatoon, Saskatchewan on October 17, 2012 (~2 hour drive from Prince Albert);
 - vi. Swift Current, Saskatchewan on October 20, 2012 (~3 hour drive from Saskatoon); and
 - vii. Return home to Kennewick (~13.5 hour drive from Swift Current).
36. The total estimated hours spent travelling over those two weeks is approximately 55 hours on top of our road training regiment (about 5 hours/day, 3 days a week) and the six games we played (about 8 hours/day, 3 days a week). I estimate that I devoted approximately 66.5 hours/week to the team when we had long road trips.
37. The road trips were long and often we would have to sleep on the bus which was not designed with beds in it. We would have to sleep in our seats or on the floor. We had to unpack and repack our equipment at each arena we were scheduled to play in and if we had a few days between games, we had practices in the home teams' arenas when they were not having practices. We ate all of our meals in restaurants, and slept in hotels. It was impossible to find time on your own.

38. My experience playing with the Sea Dogs was similar to that with the Americans. We trained just as frequently, about 5 hours/day, 3 days/week during the regular season doing both on-ice and off-ice workouts. We played games about 3 times per week and were required to attend the arena earlier in the day to stretch and do a brief workout. We then had a break but had to be at the arena 3 hours prior to game time to get changed, stretch and warm up before the game started. I estimate that I spent about 8 hours/day, 3 days/week providing my services as a hockey player to the Sea Dogs on game days.
39. As a Sea Dogs player, I was also asked to attend promotional events with the team, though these were not always mandatory and were far less frequent than those I was required to attend as player on the Americans. I estimate that on weeks with promotional events, I provided an additional 2-4 hours of services to the Sea Dogs. Therefore, in weeks without road trips, I provided about 41-43 hours per week providing my services as a hockey player to the Sea Dogs.
40. I continued to have some long road trips as a Sea Dogs player. For example, from January 29 - February 1, 2014, we had a lengthy road trip, travelling from St. John to Shawinigan, Val d'Or, and Rouyn-Nouranda, QC, which I estimate involved approximately 35 hours of travelling in less than one week on top of our training and games. I estimate that in that particular week, I worked approximately 70 hours for the Sea Dogs including our regular training and game time on top of the hours spent travelling.
41. In the several other weeks when we had road trips with the Sea Dogs, which I estimate occurred about 10 times over the season, I believe I spent over 44 hours in those weeks providing my services as a hockey player for the Sea Dogs.
42. Throughout my time playing for the Sea Dogs, I was never provided with any vacation time or payment in lieu of vacation. Moreover, we were also required to practice on statutory holidays like Remembrance Day and New Year's day. I did so without receiving any additional holiday pay.

THE DEGREE OF CONTROL BY THE TEAMS OVER THE PLAYERS

43. While I was playing in games, training, participating in practices, travelling, and attending promotional events for the Americans and the Sea Dogs, I was required to follow all requests, directions, or in effect orders from various staff members of the team including the Head Coaches, General Managers, Assistant Coaches, and the Assistant General Managers.
44. I was told where and when I was to play, train, practice or workout. The team provided me with a schedule of all practices and game times for the entire season of where to be and when. I was told by my coaches about how I was to approach playing in each game of hockey and what my role on the team was. I was told and required to adhere to the team's schedule for practices, training and games. If I did not, I would risk being dismissed from the team.
45. We were also subjected to randomized drug testing wherein we were told to urinate into a specimen jar for testing. Although I was not subjected to this testing, several of my teammates were.
46. With the Americans, my teammates and I were required to abide by a curfew which was generally 10 p.m. unless there was a special occasion. If there was any suspicion of one of us breaking the curfew, the assistant would call the billet family.
47. Additionally, I was told to attend promotional events where I was expected to stay and interact with fans, season's ticket holders, and sponsors until told by the assistant general manager or the general manager that I could leave.
48. In providing my services as a hockey player to the teams, I also transferred my rights over the use of my image to the team. The teams and the leagues could use my photos for promotional materials.

49. I own and play the NHL video game series from EA Sports. In the game, players can choose various teams to play, including teams in the CHL affiliated leagues. My name and photograph appear in three versions of the game, NHL 2012, NHL 2013, and NHL 2014. Despite my image being used in the video game, I did not receive any remuneration for the use of my image and in fact had to pay \$69.99 for the video games myself.
50. The teams also provided me with sticks and skates to use and required that I wear the jerseys and helmets they provided for me with their logo and team colours on them. The Americans' jerseys and helmets did not belong to me, but were owned by the team and I was required to return them to the team. I did not receive any other hockey equipment such as skates or protective padding.
51. The Sea Dogs gave me my jersey.
52. All of the duties and obligations I have described in this affidavit were the same for all the players on the Americans and the Sea Dogs. Likewise, from my conversations with the players for other teams in the WHL and QMJHL, I do verily believe that all other teams in those leagues operated in a similar fashion and the players had the same duties and responsibilities as I had.
53. While playing for the Americans, I estimate that I committed on average 43 hours/week in providing my services to the Americans as follows: 5 hours/day, 3 days/week for days on which we trained only; 8 hours/day, 3 days/week on game days; and 4 hours/week attending various promotional events. If we had a road trip during the week, the hours would be considerably longer, up to an estimated 66.5 hours/week.
54. With respect to the Sea Dogs, my time spent training and attending games was similar to that with the Americans, however, we attended less promotional events. I estimate that I provided my time and services to the Sea Dogs as follows: 5 hours/day, 3 days/week for days on which we trained only; and 8 hours/day, 3 days/week on game days. Some weeks we attended promotional events for an additional 2-4 hours. Therefore, in weeks without

road trips, I spent about 41-43 hours per week providing my services as a hockey player to the Sea Dogs. If we had road trips, I estimate I spent up to an estimated 70 hours/week of my time to providing services to the team.

55. All of my team mates on the Americans and Sea Dogs devoted similar hours in providing services for the teams. Likewise, from my conversations with the players for other teams in the QMJHL and WHL, I do verily believe that all other teams in those leagues operated in a similar fashion and the players committed similar hours in providing similar services to their teams.

COMPENSATION

56. For the time that I played with Americans for the 2011-2012 and 2012-2013 seasons, I was paid approximately every two weeks by cheque in the amount of \$90, which was my gross pay of \$100 every two weeks minus a deduction of about \$10 per cheque for what I believe were United States income tax deductions. Although I requested a tax slip or receipt from the Americans for those deductions, I have yet to receive it. I was also given a travel allowance of \$20 at that same time in my 2012-2013 season because I had a car which I used to drive myself to the arena for games and practices and to other locations for promotional events. The \$20 travel allowance did not adequately cover my incurred gas expenses for those purposes.
57. I received no extra money for attending additional promotional events or after a long road trip. My pay did not vary whatsoever, even if we worked longer hours in any given week. My pay also did not depend on how well I had played. At no time did I ever receive any overtime pay, vacation pay or holiday pay.
58. When the paycheques were handed out, there was generally a rumbling throughout the locker room that the pay was a pittance. Although these complaints were made between teammates, no one would say anything to the coach or team management out of fear that they would be cut from the team or traded.

59. For the 2013-2014 season when I played for the Sea Dogs, I would also receive a cheque every two weeks of approximately \$950 after deductions were taken for income tax, CPP contributions and EI premiums. This cheque was always the same no matter how many hours I worked or if I was required to practice on a statutory holiday. At the end of the tax year for 2013, the Sea Dogs issued me a T4, attached hereto as **Exhibit "J"**.
60. I recently received a T4 from the Sea Dogs for the 2014 tax year, attached hereto as **Exhibit "K"**.
61. When my season was completed with the Sea Dogs, they also provided me with a Record of Employment, attached hereto as **Exhibit "L"**. In the Record of Employment I am described as an employee whose occupation is listed as "Hockey Player" working 1048 hours which amounts to 40 hours a week. I believe the team just used 40 hours on the form when in fact I worked much longer hours.

THE AMERICANS, SEA DOGS, AND OTHER WHL AND QMJHL TEAMS ARE IN THE BUSINESS OF EARNING PROFITS

62. Americans' home games in Kennewick in 2011-2012 had an average crowd of approximately 4,653 fans each game. The capacity of the arena we played in, the Toyota Center, has a capacity for approximately 6,000 fans and many games reached capacity. At adult ticket prices of between \$18-\$23 per game, I estimate that the Americans sold on average approximately \$83,754-\$107,019 worth of tickets to each home game. Attached as **Exhibit "M"** are the 2011-2012 and 2012-2013 Tri-City Americans' Results and Schedule, including the attendance records for the Americans, available from www.hockeydb.com, a website dedicated to tracking the statistics of teams and players across several different hockey leagues.
63. Based on a ticket price of \$20 for each ticket sold, and based on the attendance records as calculated in Exhibit "M" totaling 167,524 total attendances to Americans' home games, I

estimate that the Americans had ticket sales of approximately \$3,350,480 for the 2011-12 season.

64. In contrast, all 25 players on the team made in total \$1,125 a week (25 x \$45) or \$375.00 for each game using three games a week (\$1,125 divided by 3). In other words, the team paid 25 players a total of \$475.00 to play one game. At \$10 an hour and 40 hours a week for a 26 week schedule would be \$10,000 a player and a total team wage of just \$250,000.00 on revenues of over \$3 million from home games plus additional revenue sources described below.
65. On many of the away games I attended, many of those games were also sold out, however, attendances ranged quite a bit due to the size of the arenas. Attached as **Exhibit "N"** is a chart from www.hockeydb.com listing the average attendance records for all teams in the WHL for the 2011-12 and 2012-13 seasons. The Americans' average attendance in the 2011-2012 season was 11th out of all of the teams in the WHL. Many teams had average attendances in the range of 6,000-7,000 fans, and the Calgary Hitmen had average attendances of over 9,000 people per game in the 2012-2013 season.
66. Likewise, the Sea Dogs in the 2013-2014 season had average attendances of 3,423 fans per game for 32 home games as shown in the 2013-14 Sea Dogs' Results and Schedule page, available from www.hockeydb.com, attached hereto as **Exhibit "O"**. With adult ticket prices ranging from \$16-\$18.50, I estimate that the Sea Dogs sold on average approximately \$54,768-\$63,325.50 worth of tickets to each home game or a total of \$1,978,460 worth of ticket sales using an average price of \$17.
67. The Sea Dogs' average attendance in the 2013-2014 season was 5th out of all of the teams in the QMJHL. Many teams had average attendances in the range of 2,000-3,000 fans, and the Quebec City Remparts had average attendances of over 9,000 people per game in the 2013-2014 season. Attached as **Exhibit "P"** is a chart from www.hockeydb.com listing the average attendance records for all teams in the QMJHL for the 2013-14 season.

68. On top of ticket sales, the Americans and Sea Dogs also sold t-shirts, hats, replica jerseys, mugs and other merchandise at a store that was located in the arena. I have seen other Americans and Sea Dogs merchandise at various retail stores in and around the Kennewick and St. John areas.
69. Concessions were also sold at each of the home games, including beer, soft drinks, and food such as hotdogs, popcorn and other snacks. It is my understanding that all or some of the profits from those sales went to the owners of the teams.
70. The teams also had various corporate sponsors who would advertise at games, by having their trade name and logo on the boards around the rink, in the stands and on the ice itself. Their names and logos of some of the sponsors are also advertised on the teams' websites. The "Sponsors" page from the Americans' and Sea Dogs' websites are attached hereto as **Exhibit "Q"**
71. Some of our games were also broadcast on television. I believe the teams receive revenues for those broadcasts under a television rights agreement. Moreover, the WHL and QMJHL now sell internet streaming packages wherein for a fee of \$149.95 for the WHL and \$194.99 for the QMJHL, subscribers may purchase a package to watch every WHL or QMJHL game live on the internet. The WHL and QMJHL "livestream" packages are described on the websites, attached hereto as **Exhibit "R"**.
72. From the ticket sales, corporate sponsorships, sales of memorabilia, concessions, TV rights and licensing of our images for things like video games, I do verily believe that the Americans and Sea Dogs were making profits from the direct result of the services that the players and I were providing to the teams.
73. The actual revenues and financial statements of the teams are not available to me as they are both private corporations. My lawyers will be seeking this information in these proceedings.

74. Based on the foregoing, I do verily believe that the WHL and QMJHL and their teams are businesses which are being run with a view to maximizing their profits.

FEAR OF REPRISAL


75. I was afraid about speaking about the amount of pay I was receiving to the teams' owners, management or staff, for fear that if I did, I would be either kicked off of the team or not receive any playing time. At no time did I ever speak to anyone about our pay while I was playing on the team, nor did anyone approach me to speak about it.
76. Based on my experience playing on the Americans and the Sea Dogs, it is my opinion that if a player now were found to be speaking in support of this class action to other players or the media, it is likely that they would face repercussions by the team and the league, either in being told he could not dress for games, being traded to another team, or being sent down to play in a lower tiered league.
77. For the same reasons, if a player decides not to opt out of this class action and the opt outs are disclosed to the defendants, the players who did not opt out will be ostracized on their teams.

MY EDUCATION

78. After I completed my season with the Sea Dogs I returned home to Langley, BC to work for my family's meat supply business. I have not been enrolled in any kind of educational program since graduating high school in 2011, prior to playing hockey for the Americans. I hope to enroll in business courses in colleges while I work in the next year or so. I have been advised by officials from the QMJHL and WHL that if I do not enroll in courses within the next year then I will not be able to use the scholarship packages provided for by the leagues.

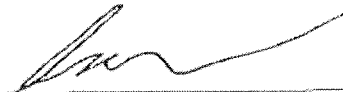
79. I swear this affidavit in support of the motion for certification, and for no other or improper purpose.

SWORN BEFORE ME at the)
City of Windsor, in the Province of)
Ontario, this 11th day of)
March, 2015. *via Facetime*)



(A Commissioner, etc.)

ANDREW J. ECKART
LSUC # 60080R



LUKAS WALTER