



No. S145512
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ARLAND RICHARD BRUCE

PLAINTIFF

AND:

MARK STEVEN COHON,
LEO EZERINS,
B.C. LIONS FOOTBALL CLUB INC.,
EDMONTON ESKIMO FOOTBALL CLUB,
CALGARY STAMPEDERS 2012 INC.,
SASKATCHEWAN ROUGHRIDER FOOTBALL CLUB INC.,
WINNIPEG BLUE BOMBERS,
THE HAMILTON TIGER-CAT FOOTBALL CLUB,
TORONTO ARGONAUTS FOOTBALL CLUB INC.,
COMPAGNIE CLUB DE FOOTBALL DES ALOUETTES DE MONTRÉAL,
CAPITAL GRIDIRON LIMITED PARTNERSHIP,
CAPITAL GRIDIRON GP INC.,
THE CANADIAN FOOTBALL LEAGUE (CFL) ALUMNI ASSOCIATION,
CHARLES H. TATOR,
KREMBIL NEUROSCIENCE CENTRE

DEFENDANTS

Response to Civil Claim

FILED BY: The Defendants, Mark Steven Cohon, B.C. Lions Football Club Inc., Edmonton Eskimo Football Club, Calgary Stampeders 2012 Inc., Saskatchewan Roughrider Football Club Inc., Winnipeg Blue Bombers, The Hamilton Tiger-Cat Football Club, Toronto Argonauts Football

Club Inc., Compagnie Club de Football des Alouettes de Montréal, Capital Gridiron Limited Partnership, Capital Gridiron GP Inc.

Part 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS

Division 1 – Defendants' Response to Facts

1. The facts alleged in paragraphs 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 24, 46, 102, 103, 104, 106 of Part 1 of the Notice of Civil Claim are admitted.
2. The facts alleged in paragraphs 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 105, 107, 108, 109, 110, 114, 115, 116, 117, 118, 119, 120, 122, 186, 190, 191, 200, 201, 202, 203, 204 of Part 1 of the Notice of Civil Claim are denied.
3. The facts alleged in paragraphs 1, 3, 14, 15, 16, 23, 45, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 111, 112, 113, 121, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 187, 188, 189, 192, 193, 194, 195, 196, 197, 198, 199, of Part 1 of the Notice of Civil Claim are outside the knowledge of the Defendants.

Division 2 – Defendants' Version of Facts

4. The Canadian Football League is an unincorporated association in the business of operating a professional football league in Canada.
5. The Defendant, Mark Steven Cohon ("Commissioner Cohon"), is the Commissioner of the Canadian Football League.
6. The Defendants, B.C. Lions Football Club Inc., Edmonton Eskimos Football Club, Calgary Stampeders 2012 Inc., Saskatchewan Roughrider Football Club Inc., Winnipeg Blue Bombers,

The Hamilton Tiger-Cat Football Club Inc., Toronto Argonauts Football Club Inc., Compagnie Club de Football des Alouettes de Montréal, Capital Gridiron Limited Partnership, and Capital Gridiron GP Inc. own or operate the franchised teams of the Canadian Football League (collectively, the "CFL Member Clubs").

7. The CFL Member Clubs are not owned or operated by the Canadian Football League.
8. Of the fifteen Defendants named in this action, eight (8) are located in Ontario, two (2) are located in British Columbia, two (2) are located in Alberta, one (1) is located in Saskatchewan, one (1) is located in Manitoba, and one (1) is located in Québec. The Canadian Football League head office is located in Toronto, Ontario.
9. The Plaintiff, Arland Richard Bruce, is a professional football player who last played for the Montreal Alouettes during the 2013 Canadian Football League season. The Montreal Alouettes released the Plaintiff from his player contract on or about February 27, 2014. The Plaintiff has not signed a subsequent player contract with any of the CFL Member Clubs; however, he has not retired from professional football and is still seeking employment as a professional football player with the CFL Member Clubs.
10. The Canadian Football League Players Association (the "CFLPA") is the exclusive bargaining agent for all professional football players of the CFL Member Clubs.
11. At all material times, the CFLPA was the exclusive bargaining agent for the Plaintiff.
12. The Canadian Football League Player Relations Committee (the "CFLPRC") is the collective bargaining representative of the CFL Member Clubs.
13. The CFLPRC is authorized by the CFL Member Clubs to negotiate a collective agreement with the CFLPA for and on behalf of the Member Clubs individually and collectively.
14. As a result of the CFLPA's exclusive bargaining agency on the Plaintiff's behalf, the Plaintiff's employment as a professional football player in the Canadian Football League and/or for a CFL Member Club is governed by the terms and conditions of a collective agreement in force between the CFLPA, the CFLPRC, the CFL Member Clubs and the Canadian Football League (the "Collective Agreement").

15. A new Collective Agreement was ratified on June 13, 2014 and the Collective Agreement term is from May 30, 2014, until the later of May 15, 2019, or the day prior to the first day of training camp in 2019. The predecessor Collective Agreement was in effect from June 6, 2010 until May 29, 2014.
16. The Collective Agreement contains expansive mandatory dispute resolution provisions outlining the process for resolving any dispute between the CFL Member Clubs, the C.F.L. and its professional football players.
17. Arbitrations arising from the Collective Agreement are conducted in the province where the dispute arose or in the province where the player's team or last team is located.
18. It is an express term of the Collective Agreement that disputes between current and former professional football players and the CFL Member Clubs and the C.F.L. are subject to the grievance and arbitration procedure of the Collective Agreement.
19. On or about July 16, 2014, the Plaintiff filed a Notice of Civil Claim seeking, *inter alia*, damages for injuries suffered while playing professional football for a CFL Member Club.
20. The subject matter of the within proceedings falls within the ambit of the Collective Agreement.
21. Hicks Morley Hamilton Stewart Storie LLP in Toronto, Ontario is counsel for Commissioner Cohon and the CFL Member Clubs. Harris & Company LLP is agent counsel for Hicks Morley Hamilton Stewart Storie LLP in British Columbia.
22. The CFL Member Clubs and Commissioner Cohon filed a Jurisdictional Response in Form 108 on August 19, 2014, challenging the jurisdiction of this honourable Court over the Defendants in respect of the claims made by the Plaintiff in the within proceedings.

Division 3 – Additional Facts

1. n/a

Part 2: RESPONSE TO RELIEF SOUGHT

1. The Defendants consent to the granting of the relief sought in none of the paragraphs of Part 2 of the Notice of Civil Claim.
2. The Defendants oppose the granting of the relief sought in all of the paragraphs of Part 2 of the Notice of Civil Claim.
3. The Defendants take no position on the granting of the relief sought in Part 2 of the Notice of Civil Claim: n/a.

Part 3: LEGAL BASIS

1. The CFL Member Clubs and Commissioner Cohon submit that this honourable Court does not have jurisdiction over the parties in respect of the within proceeding pursuant to Rule 21-8 of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009. The allegations set out in the Notice of Civil Claim are subject to the grievance and arbitration procedure set out in the Collective Agreement and, as such, this Court lacks the jurisdiction to hear and decide the Plaintiff's action. Thus, the Plaintiff's claims are exclusively within the jurisdiction of an arbitrator appointed under the Collective Agreement.
2. In the alternative, if the allegations set out in the Notice of Civil Claim are not subject to the grievance and arbitration process set out in the Collective Agreement, which is not admitted but expressly denied, the proceedings are not within the territorial competence of this honourable Court and should be transferred to the Ontario Superior Court of Justice pursuant to the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C., c. 28. In the further alternative, if the proceedings are within the territorial competence of this honourable Court, this honourable Court should decline to exercise its territorial competence in the within proceeding on the ground that the Ontario Superior Court of Justice is a more appropriate forum in which to hear the proceeding pursuant to *Court Jurisdiction and Proceedings Transfer Act*, S.B.C., c.

28, given that, *inter alia*, the vast majority of parties to this action reside in Ontario and the alleged facts which the Plaintiff relies upon largely took place in Ontario.

3. In the further alternative, in the event that this honourable Court accepts jurisdiction over this action, the CFL Member Clubs and Commissioner Cohon deny the allegations of fact outlined in the Notice of Civil Claim and put the Plaintiff to the strict proof thereof. Further, the CFL Member Clubs and Commissioner Cohon deny that the Plaintiff has suffered any damages as alleged or at all.

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Attention: Geoffrey J. Litherland

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Dated: 29 August 2014



Signature of lawyer for Defendants
Stephen J. Shamie,
Lawyer for Defendants, Mark Steven Cohon,
B.C. Lions Football Club Inc., Edmonton Eskimo
Football Club, Calgary Stampeders 2012 Inc.,
Saskatchewan Roughrider Football Club Inc.,
Winnipeg Blue Bombers, The Hamilton Tiger-
Cat Football Club, Toronto Argonauts Football Club Inc.,
Compagnie Club de Football des Alouettes
de Montréal, Capital Gridiron Limited
Partnership, Capital Gridiron GP Inc.

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 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.