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File Number: 130962

September 11, 2014

VIA FACSIMILE: 604.682.5197

(4 page(s) including this page)

Slater Vecchio
Barristers and Solicitors
18th Floor, 777 Dunsmuir Street
Vancouver BC V7Y 1K4

Attention: Robyn Wishart

Dear Sirs/Mesdames:

Re: Arland Bruce v. Tator et al

Please find enclosed a copy of the response to civil claim filed on behalf of Dr. Tator.

Our client disputes the jurisdiction of the B.C. Supreme Court pursuant to Rule 21-8 of the *Supreme Court Civil Rules*. Accordingly, we will provide you with our client's notice of application in regard to our position on jurisdiction within the time frame dictated by Rule 21-8. If it becomes necessary, we will file an amended response to civil claim and more fully address your client's notice of civil claim pleadings.

Yours truly,

HARPER GREY LLP



Per: Nigel L. Trevethan

/sw/encl.

cc: Stephen Shamie/Mitchell Smith – Hicks Morley Hamilton Stewart Storie LLP (via email)
cc: Geoffrey Litherland/Colin Edstrom – Harris & Company LLP (via email)
cc: Vernon Pahl – Guild Yule LLP (via email)
cc: Allison Foord – Borden Ladner Gervais (via email)

MEMBER OF THE TAGLAW INTERNATIONAL LEGAL NETWORK

This message is intended only for the addressee and may contain privileged information. If you are not the intended recipient, you are hereby notified that any publication of this message is strictly prohibited. If you have received this communication in error, please notify us by telephone and return it to us by regular mail. *Thank you.*

130962/2659676.1



No. S-145512
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 MONTREAL, CAPITAL GRIDIRON LIMITED PARTNERSHIP, CAPITAL GRIDIRON GP INC., THE CANADIAN FOOTBALL LEAGUE (CFL) ALUMNI ASSOCIATION, CHARLES H. TATOR and KREMBIL NEUROSCIENCE CENTRE

DEFENDANTS

RESPONSE TO CIVIL CLAIM

FORM 2 (RULE 3-3(1))

FILED BY: Charles H. Tator (the "Defendant")

Part 1: RESPONSE TO NOTICE OF CIVIL CLAIM FACTS

Division 1 - Defendant's Response to Facts

1. The facts alleged in paragraphs 15, 53 and 73 of Part 1 of the Notice of Civil Claim are admitted.
2. The facts alleged in paragraphs 22-28, 43, 49, 54-72, 74-82, 107-120, 148, 176 and 200-204 of Part 1 of the Notice of Civil Claim are denied.
3. The facts alleged in paragraphs 1-14, 16-21, 29-42, 44-48, 50-52, 83-106, 121-147, 149-175 and 177-199 of Part 1 of the Notice of Civil Claim are outside the knowledge of the Defendant.

Division 2 - Defendant's Version of Facts

1. The Defendant is a physician and surgeon licensed to practice medicine in the Province of Ontario, where he carries on practice in the area of neurosurgery.



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Division 3 - Additional Facts

1. The Plaintiff's employment as a professional football player in the Canadian Football League and/or for a Canadian Football League Member Club is governed by the terms and conditions of a collective agreement in force between the Canadian Football League Players Association, the Canadian Football League Player Relations Committee, the Canadian Football League Member Clubs, and the Canadian Football League (the "Collective Agreement").
2. The subject matter of the within proceedings falls within the ambit of the Collective Agreement.
3. The Defendant filed a Jurisdictional Response in Form 108 on September 2, 2014, challenging the jurisdiction of this Honourable Court over the Defendant in respect of claims made by the Plaintiff in the within proceedings.

Part 2: RESPONSE TO RELIEF SOUGHT

1. The Defendant opposes the granting of the relief sought in paragraph 1 of Part 2 of the Notice of Civil Claim.
2. The Defendant asks that the claim against him be dismissed with costs.

Part 3: LEGAL BASIS

1. The Defendant says that this Honourable Court does not have jurisdiction over the Defendant. 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 Honourable Court lacks the jurisdiction to hear and decide the Plaintiff's action as 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 expressly denied, the Defendant denies:
 - (a) he owed the Plaintiff a duty of care;
 - (b) that if he owed a duty of care that duty was breached;
 - (c) he was negligent in any way;
 - (d) that the Plaintiff has suffered any injury, loss, damage or expense; and
 - (e) that if the Plaintiff has suffered any injury, loss, damage or expense, that any act or omission on his part caused or contributed to any such injury, loss, damage, or expense.


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3. In the further alternative if the Plaintiff has suffered, or will suffer, any injury, loss, damage or expense, which is denied, the Defendant says that the Plaintiff has failed to mitigate his losses by failing to take all reasonable steps to minimize or avoid such injury, loss, damage or expense.

(1) The Defendant's address for service is:

HARPER GREY LLP
Barristers & Solicitors
3200 - 650 West Georgia Street
Vancouver, BC V6B 4P7
Telephone: 604 687 0411
Fax No: 604 669 9385
Attn: Nigel L. Trevethan/ADA/File No. 130962

Dated: 8 September 2014


HARPER GREY LLP
(Per Nigel L. Trevethan)
Lawyer for the Defendant,
Dr. Charles H. Tator

Name and address of lawyer:

HARPER GREY LLP
Barristers & Solicitors
3200 - 650 West Georgia Street
Vancouver, BC V6B 4P7
Telephone: 604 687 0411
Fax: 604 669 9385
Attn: Nigel L. Trevethan /ADA/File No. 130962

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.