



Joshua Mandryk
Direct Line: 416.979.6970
Fax: 416.591.7333
jmandryk@goldblattpartners.com
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Via E-mail and Regular Mail

Honourable Doug Ford
Premier of Ontario
Legislative Building
Queen's Park
Toronto, Ontario, M7A 1A1
doug.ford@pc.ola.org

Honourable Michael Tibollo
Minister of Tourism, Culture and Sport
Hearst Block, 9th Floor
900 Bay Street
Toronto, Ontario, M7A 2E1
michael.tibollo@pc.ola.org

Honourable Laurie Scott
Minister of Labour
400 University Avenue
14th Floor
Toronto, Ontario, M7A 1T7
laurie.scott@pc.ola.org

Dear Premier Ford and Honourable Ministers Tibollo and Scott:

We represent Sam Berg and all those other junior hockey players who are included in the class action against the Ontario Hockey League (OHL) that has been certified by the Ontario Superior Court of Justice. In the class action, the players are seeking simply to be recognized as employees – employees entitled to the protection of existing minimum standards legislation – the entitlement to a minimum wage, overtime pay and other basic workplace protections that all other employees in Ontario enjoy.

We have seen the November 6, 2018 letter to you from OHL Commissioner David Branch. We understand that Mr. Branch and the OHL's legal counsel have registered to lobby the Government of Ontario to exempt OHL players from the *Employment Standards Act, 2000*. It is apparent that the OHL (as other junior team owners across Canada have done) is putting its significant resources and its many powerful connections into a full-scale attempt to ensure that their players, unlike their other employees, are denied basic workplace protections.

We have also seen your November 8, 2018 letter to Mr. Branch. We hope and trust that you will consider the plight of the junior hockey players, and not only the self-interested submissions of the owners, when your government considers the "solution" that you refer to in your letter.

Let us tell you about some of the features of a junior hockey experience that Mr. Branch doesn't mention in his letter. Yes, there are hockey legends and other OHL graduates who have played in the OHL. Yes there are some OHL players who meet the onerous qualifying conditions and are able to take advantage of a "scholarship" – for one, two, if they're lucky, three or four years – after their OHL working days are over.

But being an OHL hockey player is and was a full-time job for those young men. As it was, and is, for all of the other young men who play in the OHL and don't go on to a successful hockey career or get to take advantage of a "scholarship". The majority of those who played at one time in the OHL don't get a "scholarship" or a pro hockey career.

But these young men were and are drafted to teams not of their choosing and are often required to relocate to new communities and live with new families far away from home. They work 45 to 65 hours per week for 8-10 months of the year, training, practising, making mandatory promotional appearances for their team owners, and travelling throughout the school year (for those in school) across the Province and into Michigan and Pennsylvania to play in arenas filled with thousands of fans. They are bought and sold by those owners to and from other owners. They are released and abandoned when their skill level or their injuries mean they can't contribute, can't work, at the level the owners expect.

And they do this for owners, for employers, who make money, big money in most cases, from the players' work – work that the owners and the media like to call “play”. Very few teams are community owned. Virtually all of them are owned by private companies that are able to hide their books, and their profits, from the public, from the players, from their employees.

The OHL and its teams earn large revenues as a result of the players' work, from ticket sales, television rights, sponsors, advertising, NHL subsidies, memorabilia, food and beverage sales, other revenue sources the public doesn't even know about.

Despite all of their hard work and the millions of dollars they generate for the OHL and their owners, OHL players are paid as little as \$50 per week for their services during the season. And that amount hasn't been increased in any significant amount for decades. And all the time, owners' revenues and the OHL's revenues have increased by leaps and bounds.

The questions of whether or not OHL players are employees is currently before the courts. Courts in Ontario and Alberta have agreed that they should hear and decide this fundamental question of whether junior hockey players, junior hockey workers, should enjoy basic workplace protections as employees. A Quebec court will be asked to make the same decision next month.

But the OHL owners, as have other junior hockey team owners across Canada, have already spoken on the issue. They have answered the question they are trying to prevent the courts from answering. Their actions speak for themselves. They know their players are employees, they know their players are already entitled to these basic workplace protections. They don't want the courts to direct them to give their employees these basic protections. That is why they wrote to you, and hire high-priced lobbyists. If all they wanted was a “clarification” of the employee status of these young men, the courts are poised to give them that clarification.

No, the owners don't want “clarification” – they want an exemption – they want you to exempt some of their employees – the junior hockey players who are the bedrock of their business –

from the basic, minimal workplace standards that their other employees, that all other employees in Ontario are entitled to.

Junior hockey players are not “participating in amateur athletics”. It’s not “amateur” for the owners who profit hugely from not paying these junior hockey employees. It’s only “amateur” because generations of young men, driven by the dream of making it to the NHL, have been exploited by these owners who are driven by the dream of making money or enhancing their status in the community.

Other multi-million dollar employers don’t get to avoid paying the employees who drive their revenue. Paying wages is part of doing business. Why should the OHL be any different?

If the owners play the game the way other businesses do, junior hockey won’t collapse. But there will be a new sense of fairness for the players. Off the ice – as there is on the ice. And everyone in communities which are honoured to have OHL teams can even more proudly wear those OHL team jerseys, knowing that your government has found a way to ensure that all of their team’s players are being treated equitably and fairly.

Other jurisdictions have refused to sacrifice basic workplace protections for these young employees for the self-interest of the owners. We urge you to do the same and **SAY NO** to the OHL’s request to make any legislative amendments which would deny these workers the legal rights enjoyed by all other employees in Ontario.

Sincerely,



Charney Lawyers PC
Per Ted Charney
Per Tina Q. Yang

Goldblatt Partners LLP
Per Steven Barrett
Per James K. McDonald
Per Joshua Mandryk

c.c. Sam Berg
Daniel Pachis