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Child Labor, Lawsuits, and How Junior Hockey Exploits Its Players For Profit

It's Two-Dollar Tuesday at the ShoWare Center in Kent, Washington, just south of Seattle. Enjoying half-price tickets and all the \$2 beer, hot dogs, and popcorn they can handle, over 4,600 fans are packed into the arena to watch the January 13 matchup between the hometown Seattle Thunderbirds and the rival Spokane Chiefs.

In the first period, the Thunderbirds take a 2-1 lead. Gary Glitter's "Rock and Roll Part 2" blasts through the speakers and the crowd roars after each goal: "Spokane sucks! Spokane sucks!" The boisterous bro sitting to my left is sporting a Chiefs jersey, but he's far from discouraged by the T-Birds' early goals. "We'll get 'em in the second. My boy Liam's got this," he announces to nobody in particular as he heads off between periods for another double fister of beers.

During the intermission, a couple of kids on tricycles take the ice for a race to the center line, wheels spinning madly as they glide. The screens overhead play highlights and local commercials. As the Chiefs file off the ice to the visitor's locker room, T-Bird fans crowd above the exit and boo.

The players being booed are 16-20 years old. Most are from Canada and the United States. A handful hail from Europe. All have come to play in the major junior Western Hockey League (WHL), trading the comforts of home to live with host families in far away cities, where they put in long hours of practice, games, and travel while earning a weekly stipend of \$50-100. They are some of the best junior hockey players in North America, hoping that a National Hockey League scout will offer them a ticket to the big leagues—or, as a consolation prize, that they will later attend college on one of the hockey scholarships offered by the WHL.

These same players are also at the center of a child labor investigation by the Washington Department of Labor Industries (L&I) into the WHL, which is also facing multiple class action lawsuits.



Image via Wikimedia Commons

In the winter of 2013, L&I received a complaint that the WHL might be violating child labor laws and began investigating the four WHL teams in Washington state: the Thunderbirds, the Chiefs, the Everett Silvertips and the Tri-City Americans. The investigation is ongoing and centers on a single question: namely, should the WHL's 16- and 17-year-old players be considered student-athletes developing their skills, as the league insists, or are they actually professional athletes who should be considered employees?

The investigation's outcome will have ramifications on whether the players are owed at least minimum wage salaries and could lead to fines against the teams.

"Child labor is one of the highest priority issues here at Labor & Industries," says L&I spokesman Matthew Erlich. "When these types of cases come up, it often involves questions of supervision, duty, and hours of work."

In Washington, child labor laws stipulate 16 and 17 year olds can only work four hours per day on a school day, up to 16 hours per week. On non-school weeks the numbers jump up to eight hours per day, 40 hours per week. In addition, 16- and 17-year-old employees are entitled to the same \$9.47 an hour minimum wage as adults.

"Many of the teams are for-profit businesses, at least as far as we understand it," Erlich says. "That relationship—whether it's one of a student-athlete or a professional worker—is indeed central to the investigation."

The WHL insists it's the former. When asked for comment, representatives from Washington's WHL teams deferred to League communications manager Corey St. Laurent. St. Laurent in turn deferred to WHL commissioner Ron Robison, but Robison was unavailable for an interview. The league provided the following statement:

The Western Hockey League (WHL) Member Clubs in Washington are aware that the Washington State Department of Labor and Industries has been taking a look at junior hockey with regard to the status of our amateur players. Our WHL Clubs in Washington have responded to the government, providing requested information and explaining that our players are student-athletes playing in a developmental hockey league, and participating in and contributing to their sport the same way as other amateur athletes. We are advised by the Department that, as of today, no decision has been reached in the matter.



Photo via WHL

Lukas Walter is a former major junior hockey player. He joined the WHL at 18 and spent two seasons with the Tri-City Americans. His final season was with the Saint John Sea Dogs, a team in the Quebec Major Junior Hockey League (QMJHL). He relished his time as a player.

"I loved the experience on the team, loved the hockey and everything. I made a lot of life long friends," Walter says. "But there needs to be some changes."

Walter is the representative plaintiff in a \$60 million class action lawsuit against the WHL and a \$50 million suit against the QMJHL. As with the L&I investigation, Walter's lawsuits center on whether players are employees or student-athletes.

Toronto lawyer Ted Charney, who is representing Walter in the suit, says that the evidence clearly shows that players are employees owed wages by their teams.

"These players don't play for a university, they play for a business, which is in the business of making a profit," Charney says. "Only about [5 percent](#) of players make it to the major hockey leagues. The rest of them, after spending 50-60 hours [on hockey] for four-plus years, go back to their normal life and have nothing to show for it except their \$50 a week."

If a judge rules in favor of the plaintiffs, Charney says, Walter and about 4,000-5,000 other former players will be entitled to back wages, holiday pay, vacation pay, and overtime.

Walter's lawsuits were filed a few days after another former major junior player, Sam Berg, who played in the Ontario Hockey League, filed a \$180 million class action suit against the Canadian Hockey League, major junior hockey's governing body. Charney's law firm is representing Berg as well.

Walter started with the Tri-City Americans after finishing high school. In his first season he earned \$70 a week, an amount that increased to \$85 in his second season. In exchange for his stipend, he practiced four hours a day, six days a week, and played three games a week, which required extensive travel. He also regularly attended promotional events. "Once in a while it'd be a nice hospital visit, but mostly it was standing outside Walmart and Target taking pictures with people," he says.

The lawsuit says players average 35-40 hours a week between practice, games, travel, and other team obligations, and occasionally put in 65 hours or more.



Image via WHL

When Walter moved to Saint John to play for the Sea Dogs as a 20 year old, things improved slightly. "I started earning \$500 a week and I was doing the exact same stuff as before," Walter says. "That didn't seem fair to the other players."

The lawsuit points to the fact that as a 20-year-old player, Walter was now on payroll and receiving a T4 tax form (the Canadian equivalent of an American W-2 provided to employees).

"The 20 year olds, including Luke, will tell you that they signed the 20-year-old contract, but performed virtually the same services they did when they were 16, 17, and 18," Charney says. "But for some reason they were classified as employees and received a salary, whereas all the other players under 20 didn't."

For Walter, the issue is about more than wages owed. For one, he says he's bothered by the fact that the WHL offers college scholarships to players after they leave major junior hockey, but then makes it difficult to actually get the scholarship.

"They have a lot of loopholes," Walter says. "If you're going say you're giving schooling, you should have to give it. It seems as if they don't want you to use your scholarship, because if you try and pursue pro hockey they take it away."

To use the scholarship, the WHL requires players to pursue school within a year of leaving the league, which often leaves players choosing between college and attempting to make a career out of hockey. Former major junior players cannot play Division I hockey at American universities because the NCAA considers the leagues to be professional.

There are little details that bug Walter as well. For one, major junior hockey players are featured in EA Sports' NHL video game, yet the players don't get paid for it. In fact, they don't even get a free copy of the game featuring their names, images, and likenesses.

"We were featured in NHL video games and still have to pay \$69.99 for it?" Walter asks. "There's something not right. Teams are making money off that."

Much like American college athletic departments, Charney says that major junior leagues are making money from many more sources besides video games.

"The leagues have major corporate sponsorships with some of the biggest companies in Canada," he says. "They have major TV rights arrangements for all of their games. They sell out stadiums of 5,000-6,000 people. When you look at it from that perspective, to say players are entitled to receive at least minimum wage is not an unreasonable request.

"They make money because of the players and the entertainment [they] provided. The general manager makes money, the owner makes money, the coach makes money, the assistant coach makes money. Everybody gets paid in this business except the players. This lawsuit is an attempt to correct that situation."



Image via WHL

As second period gets underway in the ShoWare Center, it seems as if the bro in the Chiefs jersey might be prophetic. The Chiefs mount a comeback and take a 4-3 lead by the end of the period. As he predicted, one of those goals was off center Liam Stewart's stick. During the second period break, a Volkswagen Jetta drives onto the ice and fans heave rubber pucks as part of the traditional Chuck The Puck promotion.

Five minutes into the third period, the T-Birds manage to tie things up and hold it at 4-4 for the remainder of the period. The game goes to overtime, and then a shootout, which the T-Birds manage to win on their fifth attempt.

It's a hard fought battle, and the crowd is into it from the drop of the puck in the first period to the final round of the shootout. These players love their sport and want to be among the five percent who make it through the WHL's pipeline to the NHL. One hundred percent of them are already putting in the practice, game time, travel, and promotion—so perhaps they should be entitled to the same minimum salary as the vendors selling \$2 beers in the stands.

"The issue in the class action isn't whether the players are taken care of by the leagues because the leagues pay for food or pay for travel accommodation or give them an opportunity to make it to the NHL or in some cases even pay for tuition," Charney says. "The issue from a legal point of view is whether the players are entitled to the benefit of the minimum wage legislations."

That question remains unanswered. The Washington L&I investigation is ongoing. Canadian courts have not yet ruled on any of the lawsuits. But the WHL is well aware that big changes could be coming to their sport. Their official statement concludes:

"Amateur hockey players have competed within the WHL in the State of Washington since 1977. The WHL certainly recognizes that undoubtedly any changes to the status of junior hockey players could impact the status of other amateur athletes in the state as well."

Still, Walter doesn't have regrets about his time as a major junior player.

"It was a good experience playing in the WHL," he says. "But changes need to be made for the better of the league and the players."

Walter's career as a player ended when he left the Saint John Sea Dogs. He's now back in Langley, British Columbia, working full-time for his dad's meat company. But he hasn't severed his connection to hockey. He's coaching a local minor hockey team.

"Hockey's hard to give up."