

ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.



The Tewaaraton Lacrosse League v. Ontario Lacrosse Association, 2022 ONSC 3592

Ontario Superior Court of Justice, Perell J, 16 June 2022

Rival sporting leagues dispute over members playing for more than one team.

Key words: Tort, Ontario, Canada, Sport, Prohibitory Injunction, Intentional Interference with Economic Relations

1. The Ontario Lacrosse Association (OLA) is a not-for-profit corporation incorporated under the [Not-for-Profit Corporations Act](#), and is the provincial governing body for the sport of lacrosse in Ontario. It oversees 66 lacrosse associations competing in 13 leagues, including the Ontario Junior A Lacrosse League (OJALL), which is a league for athletes between 18 to 21 years of age.
2. The OLA is the Ontario member of Lacrosse Canada (formerly the Canadian Lacrosse Association), which is the national governing body for the sport of lacrosse in Canada.
3. The Tewaaraton Lacrosse League (TLL) is also a not-for-profit corporation incorporated under the Not-for-Profit Corporations Act. The TLL has close ties to, and has its headquarters within the lands of, the Six Nations of the Grand River. The TLL is for athletes between 18 to 23 years of age who may have aspirations to play professional lacrosse. Play in the TLL is governed by the rule book for the National Lacrosse League (NLL), the leading professional box lacrosse league in North America. The TLL is not a member of the OLA or of Lacrosse Canada.
4. The OLA had a 'one team policy' being that an OLA athlete who signs to play for an OLA team cannot play for another OLA team, or for a team from another league without the written permission of the OLA. The policy provided stability in player loyalty, and health and safety benefits. Lacrosse is an extremely physically demanding activity. The activities of the athlete, including practices and play in game conditions, need to be monitored for safe and healthy play. The OLA has insurance which covers the players for an injury, does not cover injuries incurred by a player while playing for a non-OLA team.
5. Playing for more than one team is possible with permission, and the OLA did not object to an athlete playing for teams in leagues whose season of play did not overlap, or did not substantially overlap, with OLA team play.

6. The dispute between OLA and TLL arose when TLL indicated it intended to have an inaugural season of league play beginning in August 2021. OLA wrote to its members advising of the one team policy and amended the policy slightly. It later issued a press release about its stance.
7. The TLL sought an injunction to stop OLA's alleged interference in economic relations, contending that pursuant to an OLA regulation, an OLA athlete would be suspended from membership if that athlete played for a competing league, such as the TLL, and a suspended athlete became ineligible to play for Team Ontario or Team Canada.
8. It also claimed that the OLA's rule was oppressive, ultra vires OLA's bylaws, a restraint of trade, a breach of contract between the athletes and the OLA, and a contravention of the [Competition Act](#).
9. The OLA claimed that the injunction was not warranted under the law.
10. The Court classified the injunction sought as a prohibitory, not a mandatory, interlocutory injunction.
11. The Court noted that competitors are entitled to act in their own self-interest and to occasion economic harm on their rivals, and the tort of intentional infliction of economic harm is a narrow exception to that regulation of the marketplace. Both leagues were entitled to compete with one another and for players.
12. The Court found that there was no serious issue to be tried and further that the balance of convenience favoured the OLA, which would be substantially destabilized by the suspension of the one team policy.
13. The application for an injunction was dismissed.

IMPLICATIONS



The TLL submitted that it would be unable to maintain its existence unless OLA's Regulations were eliminated. The Court was unmoved noting that (at [81]):

...the TLL remains free to compete for players to fill out the rosters of its five teams with the lure of better training, better competition, and possibly a better connection to the professional leagues. It also has the freedom to schedule its playing season so that it does not overlap with the OLA's season.

In common law, such incidental economic harm is an accepted part of market competition.

VIEW THE CASE



This case may be viewed at <https://www.canlii.org/en/on/onsc/doc/2022/2022onsc3592/2022onsc3592.html>

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