
DISCONTINUANCE AND ARBITRATION AGREEMENT

This Discontinuance and Arbitration Agreement (the "**Agreement**"), agreed to as of January 30, 2023 (the "**Effective Date**"), is made and entered into by and among Korey Banks (the "**Plaintiff**") and the Canadian Football League ("**CFL**"), 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 c.o.b. as Ottawa Redblacks Football Club, Capital Gridiron GP Inc., The General Partner of Capital Gridiron Limited Partnership, and Ottawa Renegades Football Club Inc., and Mark Steven Cohon (collectively, the "**CFL Defendants**" and with the Plaintiff, the "**Parties**", and each individually, a "**Party**");

WHEREAS, the Plaintiff has named the CFL Defendants as defendants in *Korey Banks et al. v Mark Steven Cohon et al.*, Court File No. 1046/15 CP, in the Ontario Superior Court of Justice (the "**Proposed Class Action**") relating to allegations of negligence in respect of traumatic head injuries to current and former players of the CFL;

WHEREAS, a similar action was commenced in British Columbia in *Arland Richard Bruce v. Mark Steven Cohon et al.*, Court File No. S-145512, in the Supreme Court of British Columbia relating to allegations of negligence in respect of traumatic head injuries to a former CFL player (the "**BC Action**");

WHEREAS, the claims against the CFL Defendants in the BC Action were struck by order of the British Columbia Supreme Court made March 11, 2016, order upheld on appeal to the British Columbia Court of Appeal May 12, 2017, leave to the Supreme Court of Canada denied March 15, 2018;

WHEREAS, the Parties have agreed to discontinue the Proposed Class Action against the CFL Defendants without costs, subject to certain conditions and rights in respect of labour arbitration processes set forth below;

WHEREAS, one of the original named plaintiffs in the Proposed Class Action, Eric Allen, is deceased and neither his Estate nor his next of kin have provided instruction to continue the action in his name or the name of his Estate. The Order discontinuing the Proposed Class Action will seek the removal of Mr. Allen as a named plaintiff;

NOW, THEREFORE, the Plaintiff and the CFL Defendants agree:

1. The Proposed Class Action in the Ontario Superior Court of Justice to be discontinued without costs on the consent of the parties.
2. Players who ceased being a member of an active CFL roster as of the effective date of the Notice ("Former Players") may file a grievance under the terms of the 2014-2019 CBA for all claims arising before the end date of that CBA and in accordance with the terms of the applicable CBA thereafter. The May 21, 2019 roster of Arbitrators may be selected to arbitrate any such grievance in addition to any future rosters that may be established or any other arbitrators who may be mutually agreed upon.
3. The parties retain all claims and defences available to them under the CBAs or at law. CFL agrees that the scope of the claims and relief available to players under the 2014-2019

CBA are as stated and explained by the league to the British Columbia Court of Appeal ("BCCA") and as expressed in the BCCA's endorsement in the matter *Bruce v. Cohon et. al.* with the exception of the timing of the grievances being filed, which is provided for at paragraphs 4, 5 and 6 below.

4. Notice to be given to Former Players of the terms of this agreement by the plaintiff pursuant to reasonable methods to be selected by them. Contents of Notice to be mutually agreed. CFL and Clubs agree to provide lists of Former Players to the plaintiff that are currently in their possession or can be obtained through public means. The Notice shall have an "effective date" which will be mutually agreed upon and which will coincide with the date of the PR Release. Content of the Notice and PR Release to be established by mutual agreement of the parties.

5. Any grievance concerning a claim by a Former Player shall be brought within six (6) months of the effective date of the Notice ("Grievance Period"). Notwithstanding, the 6 month window in the sentence above, all issues of timeliness concerning a grievance made by a Former Player shall be determined by the arbitrator, taking into account, the provisions of any applicable CBA, arbitral jurisprudence and other applicable law, the specific facts relating to the Former Player (including without limitation, the status of their mental or physical competence), and the terms of this agreement in paras. 1-7. A Former Player who was not suffering from the type(s) of injuries claimed in the Proposed Class Action, or who could not reasonably be expected to have known that they were suffering the effects of such injuries, as of the effective date of the Notice described in paragraph 4 above, may initiate a subsequent grievance under the applicable subsequent CBA. Timeliness of all subsequent grievances, to be governed by the applicable CBA and any other applicable law. It is open for any Former Player to argue the applicability of tolling rights engaged under Class Proceedings legislation.


6. The CFL agrees that it will not raise any objection on the basis of delay, timeliness or laches for the period from January 1, 2017 to the end of the Grievance Period, and the parties agree that an arbitrator will have no jurisdiction to consider delay, timelines or laches for the period from January 1, 2017 to the end of the Grievance Period.

7. Management of Notice to Arbitrate dated July 4, 2018 to be determined by separate agreement of the parties or failing agreement by any mutually agreed arbitrator from the May 21, 2019 roster of arbitrators.

Executed this st 21 day of March, 2023 by:


For the CFL Defendants

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