

In Lawsuit Over Death, "The Enforcer's" Family Blames the NHL

Friday, May 17, 2013 | John Branch, The New York Times

The family of Derek Boogaard has filed a wrongful-death lawsuit against the National Hockey League.

It contends that the N.H.L. is responsible for the physical trauma and brain damage that Boogaard



sustained during six seasons as one of the league's top enforcers, and for the addiction to prescription painkillers that marked his final two years.

Boogaard was under contract to the Rangers when he was found dead of an accidental overdose of prescription painkillers and alcohol on May 13, 2011. He was 28. He was posthumously found to have chronic traumatic encephalopathy, or C.T.E., a brain disease caused by repeated blows to the head. "To distill this to one sentence," said William Gibbs, a lawyer for the Boogaards, "you take a young man, you subject him to trauma, you give

him pills for that trauma, he becomes addicted to those pills, you promise to treat him for that addiction, and you fail." The N.H.L., through a spokesman, declined to comment Sunday.

In 55 pages of detailed accusations, the suit does not seek specific damages to be awarded to Boogaard's parents and four siblings. It asks that a trial jury determine "a sum in excess of the minimum jurisdictional limit" for each of eight counts in the suit. The suit was filed late Friday by the Chicago law firm of Corboy & Demetrio in the Circuit Court of Cook County, Ill. The firm brought a similar case against the N.F.L. in 2012 on behalf of Dave Duerson, a former Bears player who committed suicide in 2011 at age 50 and was found to have C.T.E. His suit has been consolidated with that of roughly 4,200 former N.F.L. players suing the league for damages incurred during their athletic careers. The Boogaard suit against the N.H.L. was filed in time to beat two-year statutes of limitation for wrongful-death cases in places like Illinois and New York, Gibbs said. A previous lawsuit that the Boogaard family filed against the N.H.L. Players' Association last September, through a different lawyer, was dismissed this spring. In that case, the family said the union, after expressing interest in helping pursue a case against the league, had missed a deadline for filing a grievance.

A judge, in turn, ruled that the family had waited too long to act and dismissed the case. While this Boogaard lawsuit is broadly aimed at the N.H.L., it details the care that Boogaard received from specific team doctors of the Rangers and the Minnesota Wild, and the co-directors and a primary counselor of the league's Substance Abuse and Behavioral Health Program, which oversaw Boogaard's care after he entered rehabilitation while playing for the Wild in September 2009. In July 2010, after five seasons with the Wild, Boogaard signed a four-year, \$6.5 million contract with the Rangers. His last game was on Dec. 9, 2010, when Boogaard sustained a concussion — one of dozens, the family believes — during a fight in Ottawa. The next April, after stumbling on the ice during a Rangers workout, Boogaard was sent to drug rehabilitation a second time. It was during that stint that he was granted two extended, unsupervised recesses. He died in his Minneapolis apartment on the first night of his second leave.

The lawsuit notes that Boogaard played in 277 N.H.L. games over six seasons and scored three goals. He fought at least 66 times on the ice and, according to the suit, "was provided copious amounts of prescription pain medications, sleeping pills, and painkiller injections by N.H.L. teams' physicians, dentists, trainers and staff" to combat the injuries and pain he endured. For example, the suit alleges that Boogaard was given at least 13 injections of Toradol, a masking agent for pain, in the last two years of his career, by doctors of at least seven N.H.L. teams. The suit also says that Boogaard was prescribed 1,021 pills from about a dozen doctors during the 2008-9 season with the Wild. At the end of that season, after operations on his nose and his shoulder, doctors prescribed Boogaard 150 pills of oxycodone over 16 days, the suit alleges. Months later, during training camp, Boogaard was sent to drug rehabilitation for an addiction to prescription painkillers.

"Due to his ingestion of an inordinate amount of pain medications prescribed by N.H.L. team physicians, Derek Boogaard became addicted to opioids," the suit alleges. It states that the N.H.L. "breached its duty" to Boogaard by, among other things, failing to monitor his prescriptions or establish proper procedures for administering and tracking them. It alleges that the substance-abuse program knew that Boogaard violated its rules many times — including a series of failed drug tests in his final months and his admission that he sometimes bought painkillers illegally — yet never disciplined or suspended him, as program rules dictate. The lawsuit also says that the N.H.L. should have known that "enforcers/fighters" had increased risk for injuries, concussions and addiction. "On numerous occasions, the N.H.L. allowed and encouraged Derek Boogaard, after suffering concussions, to return to play and fight in the same game and/or practice," the suit alleges. Gibbs, the family's lawyer, said: "It's easy to watch a game and see these guys as superhuman. And they are not."

Next Generation Sunshine State Standards adapted from floridastandards.org. Standards specifically addressed in this edition are strategically aligned with state standards and annotated adjacent to the respective inquiry.

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1. In appropriate paragraph form, compare and contrast the pros and cons synonymous with prestigious law firms filing lucrative lawsuits against professional sports organizations not limited to but to include the NHL, MLB, and NFL. Do you believe professional athletes assume a certain degree of risk via merely engaging in highly competitive sports at the professional level, thereby inadvertently waiving liability? Thoroughly explain your reasoning and provide specific artifacts and evidence not limited solely to passage above to support your response. Create and illustrate a Venn Diagram to effectively explore relationships and patterns and to make arguments about relationships between sets. **(LA.910.3.2.2; LA.910.1.6.2; MA.912.D.7.2; MA.912.A.10.1)**
2. National Hockey Stadium or Gadaffi Hockey Stadium is a purpose build field hockey stadium in Lahore, Pakistan. It is the largest field hockey stadium in world. The stadium can hold a capacity of 45,000 spectators. Joe Lunchmeat is adamant that provided a clear line of sight from his assigned seat; he can see in excess of 19 miles whereas his associate argues it is an inconceivable estimate. Lunchmeat suggests one may accurately employ the formula $d = \text{square root of } 1.5h$ to estimate the distance d in miles to a horizon when h is the height of the viewer's eyes above the ground in feet. Estimate the distance in miles one can observe from Lunchmeat's seat in the event he is 200 feet above ground. Explain your reasoning and decide whether the solution is reasonable in the context of the original situation. **(MA.912.A.10.2; MA.912.A.6.2)**
3. An architect is a person trained and licensed to plan, design, and oversee the construction of buildings. To practice architecture means to provide services in connection with the design and construction of buildings and the space within the site surrounding the buildings, that have as their principal purpose human occupancy or use. The Online Etymologically Dictionary suggests the term, architect derives from the Latin architectus, which derives from the Greek arkhitekton (arkhi-, chief + tekton, builder), i.e., chief builder. Angle Nonagon Pythagoras possesses a deep-seated passion for mathematics and serves as an architect tasked with designing a replica hockey stadium comparable to the massive Gadaffi in Lahore, Pakistan. Angle is creating a custom window frame in the shape of a regular hexagon. To aid in evaluating costs of materials, he wants to find the area of the hexagon to determine the amount of glass required. Angle meticulously measured diagonal d and concluded it equates to 40 inches. In light of recent acts of terrorism employed at the Boston Marathon, he has elected to outfit the facility in bullet-resistant glass valued at approximately \$5.50 per square inch. Angle will require 25 rows of 25 windows across the perimeter of the facility. Determine the overall cost of glass alone affiliated with the industrial-strength NASA-engineered material. **(MA.912.G.2.5)**
4. Identify and thoroughly support your reasoning regarding which of the following that best describes the author's attitude toward the subject matter discussed: flippant disregard, mild frustration, passive resignation or an informed citizen. Explain the primary purpose of this passage and identify any indicators, which suggest the author may possess a bias for or against legal ramifications stemming from injuries sustained while engaged in athletic competition. What is the central idea and what conclusion might one draw from this passage? Provide an inference that aspiring athletes, owners, fans, and family members may derive. Explain your reasoning. **(RI.9-10.1 – 10.6)**
5. Using contextual clues only, determine the most complete and accurate definitions of following italicized terms: *ingestion*, *inordinate*, *alleges*, *copious*, *sustained*, *grievance*, *consolidated*, *statutes*, and *stint* as obtained from the passage above. Additionally, use each word in a complete sentence to demonstrate further comprehension. **(LA.910.1.6.3; LA.910.1.6.1)**
6. **SARASOTA MILITARY ACADEMY WORD-OF-THE-WEEK** Create a concluding paragraph aligned with the passage above using the following italicized word: *Archaic* (ahr-KAY-ik) adj. Belonging to an earlier time, ancient; outdated. *Curvilinear* adj. (KURV ah line e ur) n. Formed. Bound. Characterized by curved lines. **(LA.910.1.6.1; LA.910.1.6.5)**

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