

D71  
SOUSSAN  
G. Bruguera

A6007  
2005

1 HOWARD F. SILBER, ESQ. (State Bar #102888)  
2 The Law Office of Howard F. Silber  
3 9595 Wilshire Blvd. Suite 900  
4 Beverly Hills, CA 90212  
5 Phone: (310) 300-8440  
6 Facsimile: (310) 300-8401

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

SEP 21 2012

John A. Clarke, Executive Officer/Clerk  
BY Cristina Grijalva Deputy  
Cristina Grijalva

7 Attorney for Plaintiffs

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF LOS ANGELES**

10 LEN BOOGARD an individual, and as a )  
11 Successor in Interest to the late DEREK )  
12 BOOGAARD; JOANNE BOOGARD an )  
13 individual and as a Successor in Interest to )  
14 the late DEREK BOOGAARD; )  
15 Plaintiffs, )

CASE NO: **BC 492588**

**COMPLAINT FOR DAMAGES**

- 1. Breach of the Duty of Fair Dealing;
- 2. Breach of Implied Contract; and
- 3. Breach of Fiduciary Duty

16 vs. )

17 THE NATIONAL HOCKEY LEAGUE) )  
18 PLAYERS ASSOCIATION a business form) )  
19 unknown; and ROMAN STOYKEWYCH) )  
20 an individual; and DOES 1 through 50,) )  
21 inclusive, )  
22 Defendants. )

23 COME NOW Plaintiffs LENN BOOGAARD and JOANNE BOOGAARD, individually  
24 and as Successors in Interest to the late DEREK BOOGAARD who allege as follows:

CIT/CASE: BC492588 LEA/DEF#:  
RECEIPT #: CCH195707068  
DATE PAID: 09/21/12 03:43:12 PM  
PAYMENT: \$435.00 0310  
RECEIVED:  
CHECK: 435.00  
CASH:  
CHANGE:  
CARR:

09/21/12

I.

**PARTIES AND ALLEGATIONS COMMON TO ALL  
CAUSES OF ACTION**

1. Defendant the NATIONAL HOCKEY LEAGUE PLAYERS ASSOCIATION, (NHLPA) is a business form unknown which is recognized as the sole and exclusive bargaining representative of hockey players in the National Hockey League (NHL) whose members include the professional hockey players playing or residing in the State of California. By virtue of overseeing those playing for and against the San Jose Sharks; Anaheim Ducks; and the Los Angeles Kings the NHLPA does business in the County of Los Angeles State of California.
2. Defendant the NATIONAL HOCKEY LEAGUE PLAYERS ASSOCIATION, (NHLPA) a business form unknown also represents as its members the certified agents of professional hockey players including those member agents residing in and or doing business in the County of Los Angeles State of California and hence does business in the County of Los Angeles State of California.
3. The NHLPA and the NHL have a jointly administered substance abuse program known as the Performance Enhancing Substances Program ("Program") under the terms of the NHL Collective Bargaining Agreement. Players found to be in need of the program are sent to the Program's facility in Malibu, California in the County of Los Angeles, State of California.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

4. The late DEREK BOOGAARD was a former hockey player in the NHL and a member of the NHLPA. At the direction and control of the NHLPA and his employers DEREK BOOGAARD was sent to the Program's facility on multiple occasions and hence at the direction of defendant the NHLPA resided in the County of Los Angeles, State of California.

5. Defendant ROMAN STOYKEWYCH is an attorney and is the head labor attorney for the NHLPA and is a Director and or Administrator of the NHL-NHLPA Joint Substance Abuse Program located in Malibu, California, and as such and in those capacities conducts business in the County of Los Angeles, State of California.

6. Plaintiffs do not know the true names and capacities of the cross defendants sued herein as DOES 1 through 50 inclusive. Plaintiffs will seek leave of court to amend this cross complaint to allege their true names and capacities when ascertained.

7. Plaintiffs are informed and believe and based thereon allege that the defendants designated as DOES 1-50 inclusive are persons or entities in some way responsible for the acts of omission alleged, that they have some right, title, or interest in the subject matter of this action or that they are otherwise required to be joined as a party in order for cross complainant to obtain all the relief to which they are entitled. Moreover, plaintiffs are informed and believe and based thereon allege that each of the cross defendants including DOES 1-50 claims some type of possessory interest in and to the premises.

B9/21/12

1  
2 8. Each of the defendants including the DOE defendants was and is an agent, employee,  
3 employer, affiliate, representative, alter ego, subsidiary, affiliate and/or partner of one or  
4 more of the defendants and was in performing the acts complained of acting within the  
5 scope of such agency employment or is in some other way responsible for the acts of one  
6 or more of the defendants.

7  
8 9. On or about July 1, 2010 a NHLPA certified agent conducting business in the County of  
9 Los Angeles State of California negotiated a guaranteed four year Standard Player Contract  
10 (SPC) on behalf of the late DEREK BOOGAARD with the New York Rangers covering the  
11 2010-2011 NHL through 2013-2014 NHL seasons.

12  
13 10. At certain times during his playing days with the Minnesota Wild and during the first  
14 season (2010-2011) of his employment with the New York Rangers DEREK  
15 BOOGAARD was sent by his employers and the NHLPA to reside at the aforementioned  
16 Program's facility in Malibu California.

17  
18 11. That at numerous times during his professional hockey career to cope with injuries and  
19 pain and simply to be able to play or sleep after games DEREK BOOGAARD was  
20 prescribed or given a multitude of narcotics and sleeping pills by both the team doctors,  
21 physicians, trainers, and dentists of the New York Rangers and the Minnesota Wild, and  
22 that DEREK BOOGAARD had become addicted to these drugs.  
23  
24  
25

09/21/12

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

12. That having suffered numerous blows to the head and other head trauma during his NHL career DEREK BOOGAARD had suffered severe brain injury and brain damage known as Chronic Traumatic Encephalopathy (CTE), and was at certain times during the last years of his life without his full mental capacity.

13. That on or about May 13, 2011 DEREK BOOGAARD while a player for the New York Rangers and a member of the NHLPA died in his sleep from a mixture of drugs and alcohol.

14. That on or about July 1, 2011 Defendant ROMAN STOYEWYCH contacted Plaintiff LEN BOOGAARD to advise plaintiffs of their rights with regard to the payments of the balance of the compensation on DEREK BOOGAARD'S SPC; insurance payments; and any other rights he or they had under the Collective Bargaining Agreement by and between the NHL and the NHLPA which governs the business of professional hockey. Plaintiffs LEN BOOGAARD and JOANNE BOOGAARD are the parents of and Successors in Interest to the late DEREK BOOGAARD.

15. That on July 27, 2011 Defendant STOYKEWYCH knowing that the New York Rangers and the Minnesota Wild had previously prescribed narcotics to DEREK BOOGAARD; knowing the cause of death; and knowing that the New York Rangers would not be paying anything further on the player's SPC wrote to William Daily, Deputy

09/21/12

1  
2  
3 Commissioner of the NHL and demanded documentation including medical records to  
4 be used in a Grievance to enforce payment under the SPC if necessary. A true and correct  
5 copy of said letter is attached hereto as Exhibit "A".  
6

7 16. Thereafter and in September and October 2011 Defendant STOYKEWYCH updated the  
8 plaintiffs on his progress or lack thereof in obtaining these medical records requested and  
9 informing them that the league was delaying things and he was having trouble obtaining  
10 the records from the doctors in California. Defendant STOYKEWYCH promised  
11 plaintiffs he would be taking "legal action" on their behalf.  
12

13 17. That on or about October 1, 2011 The 2011-2012 NHL Season began and no  
14 compensation was paid or received from the New York Rangers as guaranteed under  
15 DEREK BOOGAARDS SPC.  
16

17  
18 18. That the plaintiffs' and each of them relied upon the supposed expertise in this area of  
19 defendant STOYKEWYCH as an experienced labor attorney.  
20

21 19. That under the terms of the Collective Bargaining Agreement by and between the  
22 NHLPA and the NHL all disputes having to do with the failure of a club to pay any  
23 portion of a player's compensation must be heard by way of a Grievance, which can only  
24 be filed by the league or the NHLPA.  
25

09/24/12

1  
2 20. Article 17 of the CBA reads in pertinent part:

3 “17.1 Grievance. A Grievance is any dispute involving the interpretation or  
4 application of, or compliance with, any provision of this Agreement, including  
5 any SPC. All Grievances will be resolved exclusively in accordance with the  
6 procedures set forth in this Article, except wherever another method of dispute  
7 resolution is set forth elsewhere in this Agreement.”

8  
9 21. That in addition under the terms of the CBA a Grievance must be filed within sixty days  
10 of the party’s knowledge of the issue giving rise to the Grievance. Article 17.2 of the  
11 CBA reads as follows:

12 “17.2 Initiation.

13 (a) A Grievance may be initiated by the NHL or the NHLPA only.

14 (b) A Grievance must be initiated within sixty (60) days from the date of the  
15 occurrence or non occurrence of the event upon which the Grievance is based, or  
16 within sixty (60) days from the date on which the facts of the matter became  
17 known or reasonably should have been known to the party initiating the  
18 Grievance, whichever is later.”

19  
20 22. That at no time prior to the expiration of the sixty day period did ROMAN  
21 STOYKEWYCH request that the NHLPA or did the NHLPA file a Grievance on behalf  
22 of the plaintiffs and against the New York Rangers for failure to pay DEREK  
23 BOOGAARD’S salary for the 2011-2012 Season and beyond, or any other Grievance on  
24 Behalf of the Plaintiffs.  
25

BO/21/12

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

23. That demand for payment from the New York Rangers was objected to on the basis that no Grievance had been timely filed by the NHLPA to enforce the SPC when it was obvious that the New York Rangers were not going to honor the SPC after the death of DEREK BOOGAARD, and that the issue of payment by the team was time barred. Defendants STOYKEWYCH and the NHLPA do not dispute this position.

**II.**

**FIRST CAUSE OF ACTION**

**BREACH OF THE DUTY OF FAIR DEALING**

(By Plaintiffs LEN BOOGAARD and JOANNE BOOGAARD as Successors in Interest to the late DEREK BOOGAARD and Against Defendant the NHLPA)

24. Plaintiff's hereby incorporate and re-allege paragraphs 1 through 23 in form and substance as though fully set forth herein.

25. At all material times herein the NHLPA owed DEREK BOOGAARD and his Successors in Interest plaintiffs LEN and JOANNE BOOGAARD a duty of fair representation. The duty of fair representation requires a union to serve its members interests without hostility or discrimination towards any, to exercise its discretion with complete good faith and honest, and to avoid arbitrary conduct. This duty prohibits bad faith or discriminatory treatment of its members by their union. The duty to refrain from arbitrary conduct further prohibits actions by the union so far outside a wide range of reasonableness as to be irrational.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

26. At all times herein mentioned the NHLPA breached the duty of fair representation owed to plaintiff DEREK BOOGAARD by amongst other things failing to meet with the Plaintiffs to discuss a Grievance within a timely manner; failing to properly investigate the issues of the Grievance; failing to properly calculate the necessary time period within which to file a Grievance; failing to properly investigate the law which would govern the Grievance; and did not timely file a Grievance on behalf of DEREK BOOGAARD despite the credibility of his claim. That it is irrational for this union to believe that a Grievance should not be filed over the non-payment of the balance of one of its members SPC when the union is aware that a team or teams bears responsibility for the player's death.

27. Due to the actions of defendant the NHLPA, in breaching its duty of fair representation, plaintiffs lost the right to enforce through Arbitration its claims for the balance of the compensation owed under the guaranteed SPC by and between DEREK BOOGAARD and the New York Rangers in the amount of \$4,800,000.00. Rather Plaintiffs have been compelled to take this action to obtain relief under their claims and has incurred the costs, attorney's fees, and expenses of this action that but for the NHLPA's breach of duty, it would not have incurred. In addition because of the NHLPA's breach of duty, plaintiffs' have lost the ability to obtain a speedy resolution of its dispute, and have incurred additional loss by reason of the breach of duty and delay, including the time value of any monetary relief they obtain and emotional distress and suffering.

31/12/05

1  
2  
3 **III.**  
4 **SECOND CAUSE OF ACTION**

5 **BREACH OF IMPLIED CONTRACT**

6 (By Plaintiffs LEN BOOGAARD AND JOANNE BOOGAARD  
7 Individually and against Defendant ROMAN STOYKEWYCH)  
8

9 28. Plaintiffs hereby incorporate paragraphs 1–27 of this Complaint in form and substance as  
10 though fully set forth herein.  
11

12 29. Defendant STOYKEWYCH entered into an implied contract with Plaintiffs to act as  
13 their attorney and to investigate all of their rights under the CBA after the death of their  
14 son.  
15

16 30. Defendant STOYKEWYCH breached this implied contract by failing to investigate all  
17 of plaintiffs' rights under the CBA or otherwise after the death of their son including but  
18 not limited to failing to meet with the Plaintiff to discuss a Grievance within a timely  
19 manner; failing to properly investigate the grievance; failing to properly calculate the  
20 necessary time period within which to file a Grievance; failing to properly investigate the  
21 law which would govern the Grievance; and did not timely file a Grievance on behalf of  
22 the late DEREK BOOGAARD despite the credibility of the claim. Further the defendant  
23 did not inform these plaintiffs of the sixty day limitations period\_what so ever and  
24 allowed the time for file a Grievance to expire.  
25

1  
2  
3 31. Plaintiffs were damaged in that they lost the right to file a Grievance against the New  
4 York Rangers for the balance of the compensation owed under the SPC in the sum of  
5 \$4,800,000.00.  
6

7  
8  
9 **IV.**

10 **THIRD CAUSE OF ACTION**  
11 **BREACH OF FIDUCIARY DUTY**

12 (By Plaintiffs LEN BOOGAARD and JOANNE BOOGAARD Individually  
13 and against Defendant ROMAN STOYKEWYCH)

14  
15 32. Plaintiff's hereby incorporate and re-allege paragraphs 1 through 31 in form and  
16 substance as though fully set forth herein.

17  
18 33. By virtue of the attorney-client relationship that existed between Plaintiffs JOANNE and  
19 LEN BOOGAARD on the one hand and ROMAN STOYKEWYCH on the other hand by  
20 the affirmative action taken at the outset of these events on behalf of plaintiffs by said  
21 attorney their existed at all material times herein a fiduciary relationship between these  
22 parties and a fiduciary duty on defendant STOYKEWYCH with regard to these plaintiffs.  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

34. Despite having voluntarily accepted the trust and confidence of these plaintiffs in regard to their rights and their son's rights under the CBA or otherwise and in violation of this relationship of trust and confidence defendant abused that relationship by amongst other things failing to meet with the Plaintiff to discuss the necessity of a Grievance within a timely manner; failing to properly investigate the grievance; failing to properly calculate the necessary time period within which to file a Grievance; failing to properly investigate the law which would govern the Grievance; and did not timely file a Grievance on behalf of plaintiffs or DEREK BOOGAARD despite the credibility of his claim. Further defendant STOTKEWYCH did not inform these plaintiffs of the sixty day limitations period what so ever and allowed the time for file a Grievance to expire. Only after the expiration of the sixty day period did this defendant take the position a Grievance would not be merited.

35. As a result of the breach of his fiduciary duty to these plaintiff's they as the parents of DEREK BOOGAARD were damaged in an amount equal to the unpaid compensation for the remaining three years of the SPC in the amount of \$4,800,000.00.

36. Defendant STOTKEWYCH acted with oppression and malice in knowingly allowing the time period to file a Grievance against the New York Rangers or others to expire and in taking no action on behalf of the plaintiffs or even advising them of the need to file a Grievance within a certain sixty day period. Defendant STOTKEWYCH instead told the plaintiffs to go away and file a claim for Workers Compensation and that no Grievance was merited only after the expiration of the sixty day period. The conduct of this

1 Defendant was in conscious disregard of the rights of these plaintiffs.  
2

3  
4 37. As a result of defendants conduct in knowingly allowing the time period to expire  
5 without filing a Grievance; in doing the acts alleged above and in advising plaintiffs only  
6 after the time period's expiration that no Grievance was merited when it was obvious  
7 such a Grievance had merit, plaintiffs should be entitled to punitive damages against  
8 defendant STOYKEWYCH in the sum of \$5,000,000.00  
9

10  
11 WHEREFORE, Plaintiffs pray for judgment as follows:  
12

- 13 1. For damages for the balance of the compensation as set forth in the SPC in the  
14 sum of \$4,800,000.00.  
15 2. For punitive damages in the sum of \$5,000,000.00  
16 3. For costs incurred in this action;  
17 4. For reasonable attorneys fees; and  
18 5. For such other and further relief as the court deems just and proper.  
19

20 DATED: September 18, 2012  
21

22 LAW OFFICES OF HOWARD F. SILBER

23  
24 By: 

25 HOWARD F. SILBER, Esq.  
Attorneys for Plaintiffs



July 27, 2011

**VIA FACSIMILE & E-MAIL**

Mr. William Daly  
Deputy Commissioner  
National Hockey League  
1185 Avenue of the Americas  
New York, NY 10036

**Re: Derek Boogaard**

Dear Bill:

We are writing in respect of Derek Boogaard ("the Player") who, as you know, passed away tragically earlier this year.

The Player's death arose after the consumption of alcohol and the ingestion of pain-killing drugs to which he had become addicted. We understand that he commenced taking such drugs upon them being prescribed to him by physicians to whom he was referred by the Minnesota Wild for treatment of hockey-related injuries sustained while playing for that Club. We also understand that he may have also been prescribed such drugs upon his being employed by the New York Rangers.

We request the following information, to be provided to us as soon as possible, in order for us to be able to further examine the circumstances of the Player's medical treatment in respect of his hockey-related injuries as it relates to his death and, in the event that the remaining compensation set out in the Player's SPC is not paid to him according to its terms, to obtain information in support of a potential grievance that bears upon the issue of whether the Player's death came as result of an injury sustained during the course of his employment as a hockey player:

1. All documents and communications in the possession of the Minnesota Wild, its personnel, Club physicians and medical consultants that relate or make reference to the medical or psychological condition of the Player and to the medical treatment or therapy received by him from Club physicians or medical consultants or others, including documents that may relate to or make reference to any treatments provided or contemplated to be provided by the Minnesota Wild's Club physicians or medical consultants on or after July 1, 2010.

**NATIONAL HOCKEY LEAGUE PLAYERS' ASSOCIATION**

20 BAY STREET, SUITE 1700, TORONTO, ONTARIO M5J 2N8

P 416.313.2300

WWW.NHLPA.COM

F 416.313.2301

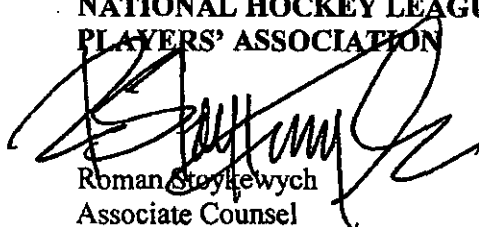
09/21/12

2. All documents and communications in the possession of the New York Rangers, its personnel, Club physicians and medical consultants that relate or make reference to the medical or psychological condition of the Player and to the medical treatment or therapy received by him from Club physicians and medical consultants and others, including any documents that relate to treatment received from physicians or medical consultants from other Clubs.
  
3. All documents and communications in the possession of the National Hockey League, its personnel and consultants that relate or make reference to the medical or psychological condition of the Player and to the medical treatment or therapy received by him from physicians or medical consultants, whether employed by NHL Clubs or otherwise.
  
4. The term "documents and communications", without restricting the generality of the foregoing, is intended to include:
  - a. written, printed, photocopied, computer-generated or electronically transmitted materials including, but not limited to, correspondence, writings, publications, emails, messages, facsimiles, computer tapes, drawings, graphs, charts, photographs, and other data compilations from which information can be obtained, and is to be understood to include draft or non-identical copies.
  
  - b. oral, written or otherwise non-verbal, or electronic expression of information, opinion, words or data and evidence thereof, no matter how those pieces of information, opinion, words or data and evidence thereof is stored, memorialized, or fixed and is understood to include, without limitation, any summaries, reviews, reports, notes, logs, records, journals, minutes or outlines concerning or memorializing the transmittal of information, opinion, words or data.

We would appreciate your early attention to this matter. If you have any questions or comments, please do not hesitate to contact me.

Yours truly,

**NATIONAL HOCKEY LEAGUE  
PLAYERS' ASSOCIATION**



Roman Stoykewych  
Associate Counsel

LSH

RES/lk

cc: Rob DeGregory  
Maria Dennis



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>LAW OFFICES OF HOWARD F. SILBER</b> HOWARD SILBER 102888 9595 WILSHIRE BLVD. SUITE 900 BEVERLY HILLS, CA 90212 TELEPHONE NO.: 310-300-8440 FAX NO.: 310-300-8401 ATTORNEY FOR (Name):	FOR COURT USE ONLY <b>FILED</b> SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES  SEP 21 2012 John A. Clarke, Executive Officer/Clerk BY <i>Cristina Grijalva</i> Deputy Cristina Grijalva
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. HILL ST. MAILING ADDRESS: CITY AND ZIP CODE: LOS ANGELES, CA 90012 BRANCH NAME: CENTRAL	CASE NAME: <b>LEN AND JOANNE BOOGAARD VS. NHLPA et al.</b>
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less) Complex Case Designation <input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	CASE NUMBER: <b>BC 492588</b> JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input checked="" type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	---	--

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a.  monetary    b.  nonmonetary; declaratory or injunctive relief    c.  punitive

4. Number of causes of action (specify): **THREE**

5. This case  is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: **SEPTEMBER 21, 2012**  
**HOWARD F. SILBER**  
 (TYPE OR PRINT NAME)

*[Signature]*  
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding. Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

**Auto Tort**

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

**Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**

- Asbestos (04)
  - Asbestos Property Damage
  - Asbestos Personal Injury/Wrongful Death
- Product Liability (*not asbestos or toxic/environmental*) (24)
- Medical Malpractice (45)
  - Medical Malpractice—Physicians & Surgeons
  - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
  - Premises Liability (e.g., slip and fall)
  - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
  - Intentional Infliction of Emotional Distress
  - Negligent Infliction of Emotional Distress
  - Other PI/PD/WD

**Non-PI/PD/WD (Other) Tort**

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
  - Legal Malpractice
  - Other Professional Malpractice (*not medical or legal*)
- Other Non-PI/PD/WD Tort (35)

**Employment**

- Wrongful Termination (36)
- Other Employment (15)

**Contract**

- Breach of Contract/Warranty (06)
- Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
- Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
- Collection Case—Seller Plaintiff
- Other Promissory Note/Collections Case
- Insurance Coverage (*not provisionally complex*) (18)
  - Auto Subrogation
  - Other Coverage
- Other Contract (37)
  - Contractual Fraud
  - Other Contract Dispute

**Real Property**

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
  - Writ of Possession of Real Property
  - Mortgage Foreclosure
  - Quiet Title
  - Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

**Unlawful Detainer**

- Commercial (31)
- Residential (32)
- Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

**Judicial Review**

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
  - Writ—Administrative Mandamus
  - Writ—Mandamus on Limited Court Case Matter
  - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
  - Review of Health Officer Order
  - Notice of Appeal—Labor Commissioner Appeals

**Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)**

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

**Enforcement of Judgment**

- Enforcement of Judgment (20)
  - Abstract of Judgment (Out of County)
  - Confession of Judgment (*non-domestic relations*)
  - Sister State Judgment
  - Administrative Agency Award (*not unpaid taxes*)
  - Petition/Certification of Entry of Judgment on Unpaid Taxes
  - Other Enforcement of Judgment Case

**Miscellaneous Civil Complaint**

- RICO (27)
- Other Complaint (*not specified above*) (42)
  - Declaratory Relief Only
  - Injunctive Relief Only (*non-harassment*)
  - Mechanics Lien
  - Other Commercial Complaint Case (*non-tort/non-complex*)
  - Other Civil Complaint (*non-tort/non-complex*)

**Miscellaneous Civil Petition**

- Partnership and Corporate Governance (21)
- Other Petition (*not specified above*) (43)
  - Civil Harassment
  - Workplace Violence
  - Elder/Dependent Adult Abuse
  - Election Contest
  - Petition for Name Change
  - Petition for Relief From Late Claim
  - Other Civil Petition

**CIVIL CASE COVER SHEET ADDENDUM AND  
STATEMENT OF LOCATION  
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

**This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.**

**Item I.** Check the types of hearing and fill in the estimated length of hearing expected for this case:  
 JURY TRIAL?  YES CLASS ACTION?  YES LIMITED CASE?  YES TIME ESTIMATED FOR TRIAL 7  HOURS/  DAYS

**Item II.** Indicate the correct district and courthouse location (4 steps – If you checked “Limited Case”, skip to Item III, Pg. 4):

**Step 1:** After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

**Step 2:** Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

**Step 3:** In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

**Applicable Reasons for Choosing Courthouse Location (see Column C below)**

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. Class actions must be filed in the Stanley Mosk Courthouse, central district.</li> <li>2. May be filed in central (other county, or no bodily injury/property damage).</li> <li>3. Location where cause of action arose.</li> <li>4. Location where bodily injury, death or damage occurred.</li> <li>5. Location where performance required or defendant resides.</li> </ol> | <ol style="list-style-type: none"> <li>6. Location of property or permanently garaged vehicle.</li> <li>7. Location where petitioner resides.</li> <li>8. Location wherein defendant/respondent functions wholly.</li> <li>9. Location where one or more of the parties reside.</li> <li>10. Location of Labor Commissioner Office</li> </ol> |
|---|---|

**Step 4:** Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	<b>A</b> Civil Case Cover Sheet Category No.	<b>B</b> Type of Action (Check only one)	<b>C</b> Applicable Reasons - See Step 3 Above
<b>Auto Tort</b>	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
<b>Other Personal Injury/ Property Damage/ Wrongful Death Tort</b>	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4. 1., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4. 1., 4. 1., 3. 1., 4.

SHORT TITLE: **BOOGAARD VS. NHLPA**

CASE NUMBER

Non-Personal Injury/Property  
Damage/Wrongful Death Tort

Employment

Contract

Real Property

Unlawful Detainer

<b>A</b> Civil Case Cover Sheet Category No.	<b>B</b> Type of Action (Check only one)	<b>C</b> Applicable Reasons - See Step 3 Above
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice	1., 2., 3.
	<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case	1., 2., 3.
	<input type="checkbox"/> A6109 Labor Commissioner Appeals	10.
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	2., 5.
	<input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)	2., 5.
	<input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud)	1., 2., 5.
	<input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff	2., 5., 6.
	<input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud	1., 2., 3., 5.
	<input type="checkbox"/> A6031 Tortious Interference	1., 2., 3., 5.
	<input checked="" type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation      Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure	2., 6.
	<input type="checkbox"/> A6032 Quiet Title	2., 6.
	<input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6.
Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

SHORT TITLE: <b>BOOGAARD VS. NHLPA</b>	CASE NUMBER
--	-------------

	<b>A</b> Civil Case Cover Sheet Category No.	<b>B</b> Type of Action (Check only one)	<b>C</b> Applicable Reasons - See Step 3 Above
<b>Judicial Review</b>	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
<b>Provisionally Complex Litigation</b>	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
<b>Enforcement of Judgment</b>	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

03/12/50

SHORT TITLE: <b>BOOGAARD VS. NHLPA</b>	CASE NUMBER
---	-------------

**Item III. Statement of Location:** Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., **Step 3** on Page 1, as the proper reason for filing in the court location you selected.

<b>REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case.</b>  <input checked="" type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input checked="" type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input checked="" type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: 1111 South Figueroa Street
CITY: LOS ANGELES	STATE: CA	ZIP CODE: 90015

**Item IV. Declaration of Assignment:** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the STANLEY MOSK courthouse in the CENTRAL District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subs. (b), (c) and (d)].

Dated: SEPTEMBER 21, 2012

  
 (SIGNATURE OF ATTORNEY/FILING PARTY)

**PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:**

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

03/21/11