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## Boogaard Lawsuit May Shake Up Hockey

By JEFF Z. KLEIN

It is a single lawsuit and, at that, a legal action in its infancy. That said, [the lawsuit brought by the family](#) of Derek Boogaard against the N.H.L.'s players union could lead to some novel and tumultuous territory for the sport.

In one sense, the lawsuit, filed last week in Los Angeles, is narrowly drawn: it accuses the union of squandering a chance at a possible financial claim by the Boogaard family in the aftermath of Derek Boogaard's [drug-and-alcohol-related death](#) in May 2011.

Boogaard, one of the league's most feared and highly paid enforcers, had three years left on his multimillion-dollar contract when he died while in the league's substance-abuse program. The union, the new lawsuit alleges, knew it had a potential claim but failed to meet a basic deadline, and the family's chance at close to \$5 million was lost.

But the lawsuit also contains an array of serious charges that could be explored in the course of litigation or in lawsuits to come.

The lawsuit, at its emotional heart, alleges that the [Minnesota Wild](#) and the [Rangers](#), the two teams for which Boogaard served as a designated fighter, contributed to Boogaard's death. The lawsuit says doctors for the Wild and the Rangers [repeatedly prescribed painkillers and other drugs](#) to Boogaard, even after his addiction to those very kinds of drugs was known.

The suit is seeking \$4.8 million in salary and \$5 million in punitive damages. The union has dismissed the suit as without merit. The union has 30 days to formally respond to the suit.

If the lawsuit goes forward, it seems clear from the papers filed last week where the Boogaard family's lawyer could head.

He could seek to take depositions from officials from the league, the Rangers, the Wild and the substance-abuse program Boogaard was in when he died.

"At numerous times during his professional hockey career, to cope with injuries and pain and simply to be able to play or sleep after games, Derek Boogaard was prescribed or given a multitude of narcotics and sleeping pills by both the team doctors, physicians, trainers and dentists of the New York Rangers and Minnesota Wild," the lawsuit says.

The family's lawyer, Howard F. Silber, could also attempt to show that Boogaard [sustained brain damage](#) as a result of his role as a fighter and that the league and the union knew that its fighters faced such a risk. Boogaard's parents [authorized researchers to examine his brain](#) after his death, and those researchers concluded [he had a degenerative brain disease](#) linked to repeated head trauma.

Silber could also seek to know whether the union's failure to act on the Boogaard family's behalf was owed to its worry about its own legal exposure. The union jointly runs the substance-abuse program, and its officials helped oversee Boogaard's care.

Boogaard's father has already established that Boogaard was in contact with senior program officials as his addiction deepened and that those officials were aware that doctors for the Rangers were prescribing some drugs with which Boogaard had struggled. Indeed, Boogaard was in touch with a program official on the night he died.

It is conceivable, too, that Silber may seek to file additional, broader lawsuits.

Boogaard was [one of three enforcers to die](#) in the spring and summer of 2011, a development that shook the sport and raised concerns about [the continuing role of fighting in the league](#). Over the last several years, the number of troubled former enforcers has only grown.

Bob Probert, a well-known fighter for the Detroit Red Wings and other teams, died of heart failure in 2010 at age 45. His brain was also found to have evidence of the degenerative disease, chronic traumatic encephalopathy.

Silber, asked this week whether the lawsuit was motivated in part by a desire to obtain more information about Boogaard's treatment from the teams and the substance-abuse program, said: "That's a great question. At this point, this lawsuit is over the union's failure to uphold its duty to one of its members."

Asked if other lawsuits might be coming, he said, "I can't say."

Bill Daly, the deputy commissioner of the N.H.L., said the league was "not prepared to discuss substantively the allegations made in the lawsuit."

"The whole matter is extremely unfortunate," Daly said, "but it is not a matter of concern for the league."

The N.F.L. has seen how former athletes can present serious legal challenges. That league has faced a storm of lawsuits in recent years concerning head injuries sustained by players, and many of the suits have charged that the N.F.L. knew of the risk to players but hid or minimized that risk for years.

One lawyer involved in a suit against the N.F.L. said that the action taken by former players began with a handful of plaintiffs but that the number had grown to about 2,200.

Boogaard, possessing little in the way of hockey skills, fought his way into the N.H.L. and became something of a league sensation. Known as the Boogeyman, he was in fights that became huge hits on the Internet, and he was widely feared.

Starting in Minnesota, he sustained a series of injuries and developed an addiction to painkillers. He entered the league's substance-abuse program in the fall of 2009 and later returned to the Wild. But he was a diminished star, and the Wild made little effort to re-sign him when his contract expired in 2010.

The Rangers, aware of his past drug problems, nonetheless gave Boogaard a contract that for fighters amounted to a near fortune. Early on, Boogaard sustained a serious concussion in a fight. He never fully recovered, and his addiction worsened, fueled in part by drugs prescribed by doctors for the team, according to records and interviews. He re-entered rehabilitation but died before completing his second stint in the league's substance-abuse program.

According to the new lawsuit, the players union contacted Boogaard's parents, Len and Joanne, about six weeks after the 28-year-old Boogaard was [found dead in his Minneapolis apartment](#) and outlined to them their possible claim against the Rangers for the rest of their son's money.

Weeks later, a lawyer for the union wrote to the league seeking medical records and other information, seeming to make clear that the union intended to file a formal grievance if needed to get the money. In the ensuing weeks, the lawsuit alleges, the union lawyer kept the parents apprised of his progress, at least once asserting that the league was dragging its feet and that he was having trouble obtaining records from doctors associated with the substance-abuse program.

When the 2011-12 season began, and the Rangers made clear they did not intend to make any further payments to the Boogaard family, the union had 60 days to file a formal grievance. The union never did.

It was only after the 60 days had expired, the lawsuit claims, that the union told Boogaard's parents that it did not think a claim for the money was merited. The suit makes clear that the union never offered a reason and that, when the parents inquired, they were told to "go away" and instead make their own claim for a workers' compensation benefit.

The N.H.L.'s players and their union, of course, are embroiled in the league's latest lockout, and with the coming season at risk, reaction to the Boogaard family's suit has so far been muted.

Rob Ray, a former enforcer who has complained of residual effects from his years of fighting, said he had not heard of any formal effort to enlist ex-fighters in a more ambitious suit.

But Ray said a lawyer he knows was shocked that one had not been filed already.

"He says it's got to come," Ray said.

*John Branch contributed reporting.*