

File No. CI15-01- 99134

THE QUEEN'S BENCH
WINNIPEG CENTRE
(EXPEDITED ACTION – RULE 20A)

NOV 24 2015

BETWEEN:

**INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES, MOVING
PICTURE TECHNICIANS, ARTISTS AND ALLIED CRAFTS OF THE UNITED
STATES, ITS TERRITORIES AND CANADA LOCAL 63,**

plaintiff,

- and -

**THE CANADIAN FOOTBALL LEAGUE, WINNIPEG FOOTBALL CLUB, TRIPLE B
STADIUM INC., WADE MILLER, JOHN DOE, JANE DOE, PATRICK ROBERGE
PRODUCTIONS INC. and NIK VON SCHULMANN,**

defendants.

STATEMENT OF CLAIM

MYERS WEINBERG LLP
Barristers and Solicitors
724-240 Graham Avenue
Winnipeg, Manitoba R3C 0J7

**GARTH H. SMORANG Q.C. /
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defendants.

STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a Manitoba lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Queen's Bench Rules, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it in this Court Office, WITHIN 20 DAYS after this Statement of Claim is served on you, if you are served in Manitoba.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is 40 days. If you are served outside Canada and the United States of America, the period is 60 days.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: NOV 24 2015

Issued by: S. VINCENT
DEPUTY REGISTRAR
COURT OF QUEEN'S BENCH

Deputy Registrar
Manitoba
Court of Queen's Bench
408 York Avenue
Winnipeg, Manitoba R3C 0P9

TO: **THE CANADIAN FOOTBALL LEAGUE**
50 WELLINGTON STREET EAST – 3rd FLOOR
TORONTO, ONTARIO, CANADA M5E 1C8

AND TO: **WINNIPEG FOOTBALL CLUB**
C/O PITBLADO LLP
2500 – 360 MAIN STREET
WINNIPEG, MANITOBA, CANADA R3C 4H6

AND TO: **TRIPLE B STADIUM INC.**
C/O DUBOFF EDWARDS HAIGHT AND SCHACHTER LAW
CORPORATION
1900-155 CARLTON AVENUE
WINNIPEG, MANITOBA, CANADA R3C 3H8

AND TO: **WADE MILLER**
345 CHANCELLOR MATHESON ROAD
WINNIPEG, MANITOBA, CANADA R3T 1Z2

AND TO: **JOHN DOE and JANE DOE**
ADDRESSES PRESENTLY UNKNOWN

AND TO: **PATRICK ROBERGE PRODUCTIONS INC.**
SUITE 270, 10711 CAMBIE ROAD
RICHMOND, BRITISH COLUMBIA, CANADA V6X 3G5

AND TO: **NIK VON SCHULMANN**
101-408 EAST KENT AVENUE SOUTH
VANCOUVER, BRITISH COLUMBIA, CANADA V5X 2X7

CLAIM

1) The plaintiff, International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, its Territories and Canada Local 63 (the "Plaintiff" or "IATSE"), claims against the defendants, or any of them, jointly, severally or as specified herein:

I. AGAINST THE DEFENDANT THE CANADIAN FOOTBALL LEAGUE

- a) a Declaration that the defendant, The Canadian Football League (the "Defendant CFL"), breached the express and/or implied terms of its contract with the Plaintiff, formed on November 13, 2015 (the "Contract"), respecting the use of the labour of its members, as stagehands, in the production of the halftime show for the 103rd annual Grey Cup football match (the "2015 Grey Cup"), held in Winnipeg, Manitoba on November 29, 2015 (the "Halftime Show");
- b) a Declaration that the Defendant CFL breached its common law duty owed to the Plaintiff to act honestly, candidly, in good faith and in a forthright manner in performing its obligations pursuant to the terms of the Contract;
- c) in the alternative, in the event that this Honourable Court finds that no contract was formed between the Plaintiff and the Defendant CFL, a Declaration that the Defendant CFL innocently or negligently misrepresented to the Plaintiff that it had been awarded the Contract when in fact it had not;

- d) pecuniary damages in the amount of \$39,377.80 representing the loss sustained by the Plaintiff as a result of the breach of the Contract committed by the Defendant CFL;
- e) non-pecuniary damages, including aggravated, punitive and/or exemplary damages, in an amount to be determined and as may be proven at a trial of this Action, arising from the breach of the duty of honest performance of the Contract by the Defendant CFL, as claimed herein;
- f) in the alternative and in the event that this Honourable Court finds that no contract was formed between the Plaintiff and the Defendant CFL, pecuniary damages, in an amount to be determined and as may be proven at a trial of this Action, for the losses incurred by the Plaintiff in reliance upon the misrepresentations of the Defendant CFL as set out herein;
- g) pre-judgment and/or post-judgment interest on the amount of any Judgment awarded to the Plaintiff, in accordance with ss. 80 and 84 of the Queen's Bench Act, C.C.S.M. c. C280 (the "QB Act");
- h) the costs of this Action, on a solicitor and client or such other basis as this Honourable Court deems just; and
- i) such further and other relief as counsel may advise and this Honourable Court may allow,

**II. AGAINST THE DEFENDANTS WINNIPEG FOOTBALL CLUB, TRIPLE
B STADIUM INC., WADE MILLER, JOHN DOE and JANE DOE**

- j) a Declaration that the Defendant, Winnipeg Football Club (the "Defendant WFC"), the Defendant, Triple B Stadium Inc. (the "Defendant Triple B"), the Defendant, Wade Miller (the "Defendant Miller"), the Defendant John Doe and/or the Defendant Jane Doe unlawfully induced the Defendant CFL to breach its Contract with the Plaintiff;
- k) in the alternative, and in the event that this Honourable Court finds that no contract was formed between the Plaintiff and the Defendant CFL, a Declaration that the Defendant WFC, the Defendant Miller, the Defendant John Doe and/or the Defendant Jane Doe interfered with the economic interests of the Plaintiff by unlawful means when they, or any of them, took steps to ensure that the Contract would not be performed or, in the event that this Honourable Court finds that the Contract was not formed, took steps to prevent the Contract from being formed;
- l) pecuniary damages in the amount of \$39,377.80 representing the loss sustained by the Plaintiff as a result of the actions of the Defendant WFC, the Defendant Triple B, the Defendant Miller, the Defendant John Doe and/or the Defendant Jane Doe in unlawfully inducing the Defendant CFL to breach its Contract with the Plaintiff or the unlawful interference with the economic interests of the Plaintiff as claimed herein;
- m) non-pecuniary damages, including aggravated, punitive and/or exemplary damages, in an amount to be determined and as may be proven at a trial of this Action, arising from the actions of the Defendant WFC, the

Defendant Miller, the Defendant John Doe and/or the Defendant Jane Doe in unlawfully inducing the Defendant CFL to breach its Contract with the Plaintiff or the unlawful interference with the economic interests of the Plaintiff as claimed herein;

n) pre-judgment and/or post-judgment interest on the amount of any Judgment awarded to the Plaintiff, in accordance with ss. 80 and 84 of the QB Act;

o) the costs of this Action, on a solicitor and client or such other basis as this Honourable Court deems just; and

p) such further and other relief as counsel may advise and this Honourable Court may allow,

**III. AGAINST THE DEFENDANTS, PATRICK ROBERGE PRODUCTIONS
INC. AND NIK VON SCHULMANN**

q) in the alternative, in the event that this Honourable Court finds that no contract was formed between the Plaintiff and the Defendant CFL, a Declaration that the Defendant, Patrick Roberge Productions Inc. (the "Defendant PRP") and/or the Defendant, NIK VON SCHULMANN (the "Defendant von Schulmann"), innocently or negligently misrepresented to the Plaintiff that it had been awarded the Contract by the Defendant CFL when in fact it had not;

- r) in the alternative, in the event that this Honourable Court finds that no contract was formed between the Plaintiff and the Defendant CFL, pecuniary damages, in an amount to be determined and as may be proven at a trial of this Action, for the losses incurred by the Plaintiff in reliance upon the misrepresentations of the Defendant PRP and/or the Defendant von Schulmann as set out herein;
- s) pre-judgment and/or post-judgment interest on the amount of any Judgment awarded to the Plaintiff, in accordance with ss. 80 and 84 of the QB Act;
- t) the costs of this Action, on a solicitor and client or such other basis as this Honourable Court deems just; and
- u) such further and other relief as counsel may advise and this Honourable Court may allow.

A. THE PARTIES

2) The Plaintiff is a union, as that term is defined and used in *The Labour Relations Act*, C.C.S.M. c. L10 and its regulations, each as amended from time to time, with its head office located in the City of Winnipeg. The Plaintiff is and, at all time material hereto, was the agent for its members, who are stagehands. The Plaintiff operates a hiring hall through which it supplies stagehand labour to employers.

3) The Defendant CFL is an unincorporated, non-profit association which operates and manages a professional sports league in Canada. The Defendant CFL is

responsible for organizing the Grey Cup, an annual football match between the top teams in each of its two divisions, and its halftime show, a concert normally featuring one or more musical acts, which takes place midway through the football match.

4) The Defendant WFC is a corporation, without share capital, incorporated pursuant to the laws of the Province of Manitoba with its registered head office located in the City of Winnipeg. The Defendant WFC is and, at all times material hereto, was the owner of the Winnipeg Blue Bombers football team and is a member of the Defendant CFL.

5) The Defendant Miller is an individual who resides within the Province of Manitoba. The Defendant Miller is and, at all times material hereto, was the President and Chief Executive Officer of the Defendant WFC. At all times material hereto, the Defendant Miller had the actual or apparent authority to act on behalf of the Defendant WFC, as its agent, and, in particular, to make representations on its behalf.

6) The Defendant Triple B is a corporation, without share capital, incorporated pursuant to the laws of the Province of Manitoba with its registered head office located in the City of Winnipeg. The Defendant WFC is a member of the Defendant Triple B. At all times material hereto, the Defendant Triple B owned, occupied and/or managed the stadium located at 315 Chancellor-Matheson Road in Winnipeg which is commonly known as "Investors Group Field."

7) The Defendant John Doe and/or the Defendant Jane Doe are individuals whose identities are presently unknown to the Plaintiff. At all times material hereto, the Defendant John Doe and/or the Defendant Jane Doe were representatives and/or agents

of the Defendant CFL, Defendant WFC and/or the Defendant Triple B with the actual or apparent authority to act and/or to make representations on behalf of the Defendant CFL, Defendant WFC and/or the Defendant Triple B, as the case may be.

8) The Defendant PRP is a corporation incorporated pursuant to the laws of the Province of British Columbia with its registered head office located in the City of Richmond. At all material times hereto, the Defendant PRP carried on business within the Province of Manitoba as an event production company. As the Defendant CFL retained the services of the Defendant PRP to produce the 2015 Grey Cup Halftime Show, the Defendant PRP had the actual or apparent authority to act on behalf of the Defendant CFL, as its agent, and, in particular, to make representations on its behalf and/or to enter into legally binding agreements on its behalf.

9) The Defendant von Schulmann is an individual who resides within the Province of British Columbia. At all times material hereto, the Defendant von Schulmann was employed by the Defendant PRP as its Director of Production and had the actual or apparent authority to act on behalf of the Defendant PRP and/or the Defendant CFL, as their agent, and, in particular, to make representations on their behalf and/or to enter into legally binding agreements on their behalf.

B. THE CONTRACT

10) The 2015 Grey Cup will be held on November 29, 2015 in the City of Winnipeg and, in particular, at Investors Group Field.

11) On or about October 8, 2015, the Defendant von Schulmann sent an email to Brent Letain, the president of the Plaintiff, through which email the Defendant von Schulmann:

- a) represented that the Defendant CFL had retained the Defendant PRP to produce the Halftime Show;
- b) represented that he was exploring various production crew options;
- c) informed Mr. Letain that the Defendant PRP had used IATSE to produce previous Grey Cup halftime shows, including the shows in Regina and Edmonton, and was interested in exploring IATSE as an option to provide the necessary stagehand labour to produce the 2015 Grey Cup Halftime Show;
- d) requested that the Plaintiff forward to him its crew rates and contract clauses pertaining to meal breaks, overtime and premium days for review.

12) On or about October 10, 2015, in reply to the above noted email, the Plaintiff, through Mr. Letain, forwarded to the Defendant von Schulmann the requested rates and contractual clauses.

13) On or about November 5, 2015, Barney Haines, International Representative for the Plaintiff, sent an email to the Defendant von Schulmann, advising that the Plaintiff would be willing to further reduce the hourly rates of its members by 10%.

14) On or about November 8, 2015, the Defendant von Schulmann sent an email to Messrs. Letain and Haines, providing them with a copy of the Local Crew Schedule for

the 2015 Grey Cup (the "Schedule") and requesting an estimate from the Plaintiff based on the hours set out therein.

15) On or about November 9, 2015, Mr. Haines provided to the Defendant von Schulmann a quote for the labour costs of the Plaintiff in respect of the 2015 Grey Cup according to the hours set out in the Schedule (the "Quote"). The total cost being \$39,377.80.

16) On or about November 13, 2015, the Defendant von Schulmann sent an email to the Plaintiff, via Messrs. Letain and Haines, through which email the Defendant von Schulmann represented that the Defendant CFL had accepted the Plaintiff as labour supplier for the 2015 Grey Cup Halftime Show.

17) At some point on or about November 13, 2015, after the Defendant von Schulmann had informed the Plaintiff that the Defendant CFL had selected the Plaintiff as its labour supplier for the 2015 Grey Cup Halftime Show, the Defendant Miller, the Defendant John Doe and/or the Defendant Jane Doe, on their own behalf or on behalf of the Defendant WFC or the Defendant Triple B, contacted representatives of the Defendant CFL and/or the Defendant PRP, including the Defendant von Schulmann, and induced the Defendant CFL to immediately cancel its Contract with the Plaintiff.

18) On or about November 16, 2015, the Defendant von Schulmann notified the Plaintiff that the Defendant CFL had not approved the Quote submitted by the Plaintiff and would be going in a different direction.

C. CAUSES OF ACTION AGAINST THE DEFENDANT CFL

i. *Breach of Contract*

19) The Plaintiff states, as the fact is, that a Contract was formed between the Plaintiff and the Defendant CFL on or about November 13, 2015 when the Defendant, through its agent(s), the Defendant PRP and/or the Defendant von Schulmann for whose actions the Defendant CFL is vicariously liable, sent the November 13, 2015 email to the Plaintiff, through Messrs. Letain and Haines, stating that the Defendant CFL had selected the Plaintiff as its labour supplier for the Halftime Show.

20) The Contract included, among other things, the following express or implied material terms and/or conditions, namely that:

- a) the Plaintiff would provide sufficient labour to the Defendant CFL on the dates specified in the Schedule and the Quote, for the purposes of assisting in the production of the 2015 Grey Cup Halftime Show;
- b) in consideration of the promise made by the Plaintiff regarding the supply of its members' labour, the Defendant CFL would pay the Plaintiff, on behalf of and for the benefit of its members who provided labour, the total amount of \$39,377.80 as previously set out in the Quote submitted by the Plaintiff; and
- c) the Defendant CFL would perform its obligations under the Contract in an honest, candid, forthright manner and in good faith.

21) In breach of the material terms and/or conditions of the Contract as set out above, the Plaintiff states, as the fact is, that the Defendant CFL, through its agent(s), the

Defendant PRP and/or the Defendant von Schulmann, represented to the Plaintiff, through Messrs. Letain and Haines, on November 13, 2015, that the Defendant CFL had no intention of complying with its obligations under the recently formed Contract.

22) As a result of the breach of the Contract by the Defendant CFL, as claimed by the Plaintiff herein, the Plaintiff has suffered loss and damage in the amount of \$39,377.80, being the value of the Quote which the Plaintiff had previously submitted and which the Defendant CFL had accepted through the conduct of its agent(s) as indicated above.

ii. *Breach of Duty of Honest Performance*

23) Further, or in the alternative, the Plaintiff states that the Defendant CFL owed the Plaintiff a duty at common law to perform its obligations under the Contract in an honest, candid, forthright manner and in good faith.

24) The Plaintiff states that the Defendant CFL breached the said duty of honest performance of the Contract when it, through the actions of its agent(s) as set out herein and for whose conduct the Defendant CFL is vicariously liable, attempted to mislead the Plaintiff into believing that it had subsequently not approved the Quote submitted by the Plaintiff when in fact the Defendant CFL had been induced by some or all of the other named Defendants herein to refuse to comply with the Contract.

25) As a result of the breach of the duty of honest performance by the Defendant CFL as claimed herein, the Plaintiff suffered loss and damage equal to the value of the Contract, namely, \$39,377.80.

iii. *Misrepresentation*

26) In the alternative, in the event that no binding agreement was formed between the Plaintiff and the Defendant CFL as claimed herein, the Plaintiff states, as the fact is, that the Defendant CFL, through its agent(s), the Defendant PRP and/or the Defendant von Schulmann for whose actions the Defendant CFL is vicariously liable, represented to the Plaintiff that a binding agreement had been created as particularized above.

27) Further in the alternative, the Plaintiff states that the Defendant CFL owed the Plaintiff a duty of care in making the said representations to the Plaintiff which duty the Defendant CFL breached and its conduct fell below the requisite standard of care when it made the said representations through its agent(s) as claimed herein, either knowing that they were false or being careless as to their truth and the Defendant CFL would not comply with them.

28) Further in the alternative, the Plaintiff states that it relied upon the said representations made by the Defendant CFL in good faith and to its detriment.

29) Further in the alternative, as a result of its reliance upon the misrepresentations of the Defendant CFL as claimed herein, the Plaintiff claims that it has suffered certain loss and damage which is in the process of being quantified and will be particularized as the information becomes available to the Plaintiff.

D. CAUSES OF ACTION AGAINST THE DEFENDANT WFC, THE DEFENDANT TRIPLE B STADIUM INC. THE DEFENDANT WADE MILLER, THE DEFENDANT JOHN DOE and THE DEFENDANT JANE DOE

i. *Inducement to Breach Contract*

30) The Plaintiff states that the Defendant Miller, the Defendant John Doe and/or the Defendant Jane Doe, in their personal capacities or in their capacities as representatives and/or agents of the Defendant CFL, Defendant WFC and/or the Defendant Triple B, with the knowledge of the Contract that had been formed between the Plaintiff and the Defendant CFL and without justification, directly or indirectly encouraged, persuaded, cajoled, convinced, threatened or offered an incentive to the Defendant CFL to breach its Contract with the Plaintiff with the intention of securing a breach of the said Contract.

31) As a result of the unlawful inducement to breach the Contract by the Defendant Miller, the Defendant John Doe, the Defendant Jane Doe, the Defendant WFC and/or the Defendant Triple B as claimed herein, the Plaintiff suffered loss and damage equal to the value of the Contract, namely, \$39,377.80.

ii. *Interference with Economic Interests by Unlawful Means*

32) In the alternative, in the event that this Honourable Court finds that no contract was formed between the Plaintiff and the Defendant CFL, Plaintiff states that the Defendant Miller, the Defendant John Doe and/or the Defendant Jane Doe, in their personal capacities or in their capacities as representatives and/or agents of the Defendant CFL, Defendant WFC and/or the Defendant Triple B, with the intention to injure the Plaintiff and without justification, interfered with the economic interests and expectations of the Plaintiff by unlawful means, in this case, by making false representations to the Defendant CFL regarding the Plaintiff and its members.

33) Further in the alternative, as a result of the unlawful interference with the economic interests of the Plaintiff by the Defendant Miller, the Defendant John Doe, the Defendant Jane Doe, the Defendant WFC and/or the Defendant Triple B as claimed herein, the Plaintiff suffered loss and damage equal to the value of the Contract which the Plaintiff expected would be concluded, namely, \$39,377.80.

E. CAUSES OF ACTION AGAINST THE DEFENDANTS PRP AND VON SCHULMANN

i. Misrepresentation

34) In the alternative, in the event that no binding agreement was formed between the Plaintiff and the Defendant CFL as claimed herein, the Plaintiff states, as the fact is, that the Defendant PRP, through the actions of its employee and agent, the Defendant von Schulmann, for whose actions the Defendant PRP is vicariously liable, and/or the Defendant von Schulmann in his personal capacity, represented to the Plaintiff that the Defendant CFL had accepted its Quote thereby creating a legally binding agreement between them.

35) Further in the alternative, the Plaintiff states that the Defendant PRP and/or the Defendant von Schulmann owed the Plaintiff a duty of care in making the said representations to the Plaintiff which duty the Defendant PRP and/or the Defendant von Schulmann breached and their conduct fell below the requisite standard of care when they made the said representations either knowing that they were false or being careless as to their falsity and the Defendant CFL would not comply with them.

36) Further in the alternative, the Plaintiff states that it relied upon the said representations made by the Defendant PRP and/or the Defendant von Schulmann in good faith and to its detriment.

37) Further in the alternative, as a result of its reliance upon the misrepresentations of the Defendant PRP and/or the Defendant von Schulmann as claimed herein, the Plaintiff claims that it has suffered certain loss and damage which is in the process of being quantified and will be particularized as the information becomes available to the Plaintiff.

38) Pursuant to *Queen's Bench Rule 17*, a party to this Action may be served outside Manitoba due to the fact that the proceeding is in respect of:

- a) a contract made in whole or in part in Manitoba;
- b) a tort committed in Manitoba;
- c) damages sustained in Manitoba;
- d) a matter involving a person outside Manitoba who is a necessary and proper party to the proceeding against another person served in Manitoba.

39) As a result of the above, the Plaintiff seeks the relief as claimed at paragraph 1 hereof.

Date: NOV 24 2015

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