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Rejection of injunction doesn't address whether logo and name are discriminatory

Rebecca Jones and Paul-Erik Veel were quoted in the Canadian Lawyer article *Rejection of injunction doesn't address whether logo and name are discriminatory* on October 19, 2016.

"What we're saying is when you deliver a service in Ontario, whether it be Rogers through the Rogers Centre or its broadcast, or the Cleveland team by coming and participating in that service, when you're in this province you have to deliver that service without discrimination," says Rebecca Jones, partner at Lenczner Slaght Royce Smith Griffin LLP and counsel for Cardinal.

The factum for the injunction says the aim is to end, at least in Canada, "the use of a racist name and logo that has no place in Canadian society."

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Another of the lawyers representing Cardinal, Paul-Erik Veel also of Lenczner, says he was disappointed with the judge's decision, but adds the rejection of the injunction does not necessarily touch upon whether the name and logo are discriminatory.

"The question of whether an injunction is appropriate involves a lot of considerations beyond the merits of the case and one of the things our opponents argued quite strenuously was all of the practical problems that could emerge if an injunction was granted," he says.

"Having to make the last minute changes on three hours' notice they said would pose significant inconvenience and would essentially be impossible."

Jones says the important thing is that failing the test for the injunction is different from a determination on the merits of their case. She says applications to the human rights tribunals were filed on Oct. 14.

Some of the allegations relate to the broadcast of the offensive logo and team name, which is a federal issue, while hosting the game in Ontario sees the matter also fall under provincial jurisdiction, which is why applications were filed with both federal and provincial human rights tribunals.

“Under Ontario human rights law you can’t have discrimination in the delivery of a service and there are various grounds of discrimination that are prohibited,” she says.

“What’s going to be before the human rights tribunal is whether or not offering a service to the public — which is a sports event — whether or not using the Chief Wahoo logo and in particular the Chief Wahoo logo in association with the name Indians, constitute discrimination in the delivery of a service.”

Jones, who says it’s an important case about racial discrimination in the delivery of services in Ontario, points out they aren’t seeking anything that would have an “extra-territorial effect” by impacting use of Cleveland’s name and logo in other jurisdictions.

“If the human rights commission found in our favour what it would mean would be that while the team is playing in Ontario, they would play using their jerseys that contain the C logo which they’ve identified as being their primary logo in any event,” Jones says.

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<http://www.canadianlawyermag.com/legalfeeds/3488/rejection-of-injunction-doesn-t-address-whether-logo-and-name-are-discriminatory.htmlblog>