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Whatâ€™s in a Name: Reflecting on Douglas Cardinalâ€™s Injunction in the Wake of Clevelandâ€™s Decision to Change the Franchiseâ€™s Name

On December 13, 2020, news broke that Cleveland's professional baseball team was changing its name. After the 2021 season, the Cleveland baseball team will no longer use the name "Indians".

The name change came following the discontinuance of the racist "Chief Wahoo" logo prior to the 2019 baseball season, and following decades of public opposition to the use of the name and the logo. The Cleveland name change likewise follows changes in other professional sports' teams use of similar racist imagery and language, including the high-profile decision of the Washington professional football team earlier this year to stop using its name.

Opposition to Cleveland's name and logo was led by the Indigenous community and came on many fronts – from opening day protests to failed legislative initiatives to lawsuits in the United States. Cleveland's decision has been hailed as an important step a long time in the making – a decision that is better late than never.

In the wake of the news, we have reflected back on how the legal challenges over Cleveland's name came to Canadian shores during the 2016 American League Championship Series ("ALCS") between Cleveland and the Toronto Blue Jays.

In the lead up to the Cleveland – Toronto series, Douglas Cardinal, a prominent Indigenous architect, brought applications before the Canadian Human Rights Commission and Human Rights Tribunal of Ontario ("HRTO") in respect of the use of the name and logo of Cleveland's team in Toronto during the ALCS. As part of those applications, Mr. Cardinal brought an application for an injunction seeking to enjoin the Cleveland team, Major League Baseball and Rogers Communications Inc. from displaying and broadcasting Cleveland's name and logo while in Ontario on the basis that doing so breached the Human Rights Code.

The injunction application was heard on the very day the ALCS was scheduled to begin at the Rogers Centre. While Mr. Cardinal was not granted an injunction that day, Justice McEwen found that Mr. Cardinal's application met the first branch of the test to obtain an injunction as it raised a serious issue to be tried related to whether Cleveland's name and logo discriminated against or harassed Mr. Cardinal in the provision of a service.

Following the injunction hearing, the case proceeded before the HRTO, which greenlit the case moving forward in the face of claims by the Respondents that the HRTO lacked jurisdiction. The HRTO's decision regarding jurisdiction was upheld by the Divisional Court in 2017.

Looking back on the four years which have elapsed since Mr. Cardinal brought his case in the Canadian justice system, the case is an important precedent in respect of the jurisdiction of the HRTO and the legal avenues that may be available to challenge discriminatory imagery and language in Ontario. While Mr. Cardinal's case was one moment of protest against the use of discriminatory names and logos in the much larger movement towards change which has resulted in Cleveland's decision, Lenczner Slaght is immensely proud to have represented Mr. Cardinal in his case.