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CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

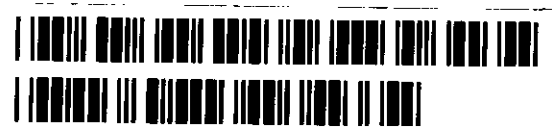
ROBERT BROTHERRSON, PATRICK SHEEHY, and CAROLYN BECHTEL, individually and on behalf of all others similar situated,
Plaintiffs,

v.

THE PROFESSIONAL BASKETBALL CLUB, L.L.C., an Oklahoma limited liability company registered to do business in the State of Washington,
Defendant.

07-1787 RSM

NOTICE OF REMOVAL FROM KING COUNTY SUPERIOR COURT



07-CV-01787-CMP

TO: CLERK OF UNITED STATES DISTRICT COURT

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant gives notice that this matter, which had been pending in King County Superior Court as Cause No.07-2-32173-0 SEA, has been removed as follows:

1. The Professional Basketball Club ("PBC") was served with plaintiffs' Class Action Complaint on October 15, 2007. Therefore, this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b). Copies of plaintiffs' Complaint and Summons, and all other papers filed in the King County Superior Court in this matter, along with an index thereto, are attached as Exhibit A.

NOTICE OF REMOVAL FROM KING COUNTY SUPERIOR COURT - 1

BYRNES & KELLER LLP
38TH FLOOR
1000 SECOND AVENUE
SEATTLE, WASHINGTON 98104
(206) 622-2000

ORIGINAL

1 2. This matter is subject to removal under 28 U.S.C. § 1441 because original
2 jurisdiction exists pursuant to 28 U.S.C. § 1332(d)(2)(A), which provides that: “The district
3 courts shall have original jurisdiction of any civil action in which the matter in controversy
4 exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and is a class action in
5 which – (A) any member of a class of plaintiffs is a citizen of a State different from any
6 defendant.” See also Lowdermilk v. U.S. Bank Nat’l Assoc., 479 F.3d 994, 997 (9th Cir. 2007)
7 (minimal diversity established where defendant was a citizen of Ohio and at least one member of
8 the class was a citizen of Oregon). This matter is subject to removal based on the following:

9 a. Plaintiffs allege a class action arising out of the plaintiffs’ purchase of
10 season tickets for the 2007-2008 Sonics’ basketball season.

11 b. The named Plaintiffs, Robert Brotherson, Patrick Sheehy and Carolyn
12 Bechtel, are each citizens of the State of Washington. Plaintiffs Robert Brotherson and Patrick
13 Sheehy are residents of Seattle, Washington, and Plaintiff Carolyn Bechtel is a resident of
14 Kirkland, Washington. First Amended Complaint, ¶¶ 2.1-2.3.

15 c. Defendant PBC is a citizen of Oklahoma. PBC is an Oklahoma limited
16 liability company, and all of its owners/members are citizens of Oklahoma, and none of its
17 owners/members are citizens of Washington. See Johnson v. Columbia Props. Anchorage, LP,
18 437 F.3d 894, 899 (9th Cir. 2006) (refusing to extend the corporate citizenship rule of 28 U.S.C.
19 § 1332(c)(1) to limited liability companies and holding that “like a partnership, an LLC is a
20 citizen of every state of which its owners/members are citizens”).

21 d. There are at least 100 class members in the Plaintiffs’ alleged class as
22 required pursuant to 28 U.S.C. § 1332(d)(5)(B). Plaintiffs allege that the class members are
23 “estimated to be at least in the thousands” and that “[p]laintiffs believe that members of the Class
24 can be easily identified through the Sonics’ season ticket sales records.” First Amended
25 Complaint, ¶ 5.2; see also Blockbuster, Inc. v. Galeno, 472 F.3d 53, 59 (2d Cir. 2006) (minimal
26 diversity established by averment in complaint that “thousands” of customers were part of the

1 alleged class). According to the PBC's season ticket sales records, there are 1,387 season ticket
2 holder accounts in the alleged class.

3 e. The matter in controversy exceeds \$5,000,000. Pursuant to 28 U.S.C.
4 § 1332(d)(6), "the claims of the individual class members shall be aggregated to determine
5 whether the matter in controversy exceeds the sum or value of \$5,000,000." Plaintiffs allege that
6 the PBC "guarantee[d] that season ticket prices would be frozen at their current levels through
7 the 2009-2010 season" in exchange for renewing their season tickets and "created the impression
8 that it intended to keep the Sonics in Seattle (the "Emerald City") for at least the next three
9 years." First Amended Complaint, ¶ 1.3. Plaintiffs seek a judgment to "fully and fairly
10 compensate Plaintiffs and each individual Class member" for an unspecified amount of monetary
11 damages. First Amended Complaint, p. 12, ¶ F. According to the PBC's season ticket holder
12 sales records, the 2007-2008 gross ticket sales for the alleged class members total \$8.7 million.

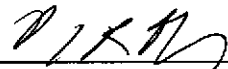
13 f. Furthermore, Plaintiffs seek an award of exemplary damages, attorneys'
14 fees, and costs on behalf of the proposed class members. Plaintiffs have also asserted a claim for
15 violation of the Washington Consumer Protection Act, which provides for an award of treble
16 damages and attorneys' fees to the prevailing party. RCW 19.86.090. In addition to alleged
17 monetary damages, the matter in controversy also includes attorneys' fees, if authorized by
18 statute or contract. Kroske v. U.S. Bank Corp., 432 F.3d 976, 980 (9th Cir. 2005), cert. denied,
19 ___ U.S. ___, 127 S. Ct. 157 (2006). Therefore, along with the \$8.7 million in gross season
20 ticket holder sales for 2007-2008, the amount in controversy in this matter exceeds \$5,000,000.

21 3. Removal to this Court is proper under 28 U.S.C. § 1441(a) because this is the
22 United States District Court for the district and division embracing the place where this action is
23 pending.

24 4. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served
25 upon counsel for Plaintiffs, and a copy is being filed with the Clerk of the King County Superior
26 Court.

1 DATED this 2nd day of November, 2007.

2 BYRNES & KELLER LLP

3
4 By 
5 _____
6 Bradley S. Keller, WSBA #10665
7 Paul R. Taylor, WSBA #14851
8 Attorneys for Defendant
9 The Professional Basketball Club, L.L.C.
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DECLARATION OF SERVICE

I, Christina L. Haring, declare and state:

1. I am a citizen of the State of Washington, over the age of eighteen years, not a party to this action, and competent to be a witness herein.

2. On the 2nd day of November, 2007, I caused a true copy of the foregoing Notice of Removal from King County Superior Court No. 07-2-32173-0 SEA to be served on the following counsel of record via hand delivery:

Mark A. Griffin
Frederick W. Schoepflin
Keller Rohrback L.L.P
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052

Michael D. Myers
Myers & Company, P.L.L.C.
1809 Seventh Avenue, Suite 700
Seattle, WA 98101

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED in Seattle, Washington this 2nd day of November, 2007.


Christina L. Haring, WSBA #30121

EXHIBIT A

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6
7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON

10 ROBERT BROTHERSON, individually and on)
behalf of all others similar situated,,)

11 Plaintiff,)

12 v.)

13 THE PROFESSIONAL BASKETBALL CLUB,)
14 L.L.C., an Oklahoma limited liability company)
registered to do business in the State of)
15 Washington,,)

16 Defendant.)

No.

INDEX TO STATE COURT PLEADINGS

17 Attached hereto are all the pleadings and papers on file and/or served in the King County
18 Superior Court matter Brotherson, et al. v. The Professional Basketball Club, LLC, Cause No.
19 07-2-32173-0 SEA, as of November 2, 2007, indexed as follows:

No.	Pleading Description
1	Summons
2	Class Action Complaint
3	Order Setting Civil Case Schedule
4	Case Information Cover Sheet
5	Notice of Appearance

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6	Affidavit of Service
7	First Amended Class Action Complaint
8	Confirmation of Service

DATED this 2nd day of November, 2007.

BYRNES & KELLER LLP


By 
Bradley S. Keller, WSBA #10665
Paul R. Taylor, WSBA #14851
Attorneys for Plaintiff
The Professional Basketball Club, L.L.C.

EXHIBIT 1

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OCT 15 2007
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REGISTERED MAIL ROOM

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FPS CORPORATE SERVICES, INC
Colleen M. Martin, VICE PRESIDENT

BYRNES & KELLER LLP

KING COUNTY
SUPERIOR COURT

by messenger service

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

ROBERT BROTHERSON, individually and on)
behalf of all others similarly situated,)

07 - 2 - 32 173 - USEA

Plaintiff,)

No.

v.)

SUMMONS [20 days]

THE PROFESSIONAL BASKETBALL)
CLUB, L.L.C. an Oklahoma limited liability)
company registered to do business in the State)
of Washington.)

TO: THE PROFESSIONAL BASKETBALL CLUB, L.L.C., Defendant(s)

1. A lawsuit has been started against you in the above-entitled court by the plaintiff.

2. Plaintiff's claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

3. In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and serve a copy upon the undersigned person:

within twenty (20) days (if service is made on you within the State of Washington); or

within sixty (60) days (if service is made on you outside the State of Washington),

SUMMONS - I

LAW OFFICES OF
KELLER ROHRBACK L.L.P.
1201 THIRD AVENUE, SUITE 3200
SEATTLE, WASHINGTON 98104-3052
TELEPHONE: (206) 823-1900
FACSIMILE: (206) 823-3384

1 after the date of service on you of this Summons, excluding the day of service, or a default
2 judgment may be entered against you without notice. A default judgment is one where plaintiff
3 is entitled to what he asks for because you have not responded.

4 4. If you serve a Notice of Appearance on the undersigned person, you are entitled
5 to notice before a default judgment may be entered.

6 5. If not previously filed, you may demand that the plaintiff file this lawsuit with
7 the court. If you do so, the demand must be in writing and must be served upon the
8 undersigned person. Within fourteen (14) days after you serve the demand, the plaintiff must
9 file this lawsuit with the court, or the service on you of this Summons and Complaint will be
10 void.

11 6. If you wish to seek the advice of an attorney in this matter, you should do so
12 promptly so that your written response, if any, may be served on time.

13 7. This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of
14 the State of Washington.

15
16 DATED this 3rd day of October, 2007.

17
18 KELLER ROHRBACK L.L.P.

19
20 By 

21 Mark A. Griffin, WSBA #16296
22 Frederick W. Schoepflin, WSBA #19060
23 1201 Third Avenue, Suite 3200
24 Seattle, WA 98101
25 Telephone: (206) 623-1900
26 Facsimile: (206) 623-3384
27

SUMMONS - 2

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LAW OFFICES OF
KELLER ROHRBACK L.L.P.
1201 THIRD AVENUE, SUITE 3200
SEATTLE, WASHINGTON 98101-3052
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EXHIBIT 2

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FPS CORPORATE SERVICES, INC.
Colleen M. Moran, VICE PRESIDENT
by messenger service

KING COUNTY
SUPERIOR COURT

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Superior Court Clerk's Office
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Superior Court Clerk

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SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

ROBERT BROTHERSON, individually and on)
behalf of all others similarly situated,)

Plaintiff,)

v.)

THE PROFESSIONAL BASKETBALL)
CLUB, L.L.C. an Oklahoma limited liability)
company registered to do business in the State)
of Washington,)

Defendant.)

No 07-2-32173-0SEA

CLASS ACTION COMPLAINT

Plaintiff, by his undersigned attorneys, alleges upon personal knowledge as to himself and his own acts, and upon information and belief (based upon the investigation of his counsel) as to all other matters, as to which allegations he believes substantial evidentiary support will exist after a reasonable opportunity for further investigation and discovery as follows:

I. NATURE OF ACTION

1.1 Plaintiff brings this action as a Class Action pursuant to Rules 23(a), (b)(1), (b)(2) and (b)(3) of the Washington Rules of Civil Procedure on behalf of all persons who purchased season tickets for the Seattle Supersonics basketball franchise ("the Sonics") after the club was purchased by The Professional Basketball Club, L.L.C. ("PBC") in July 2006 and

CLASS ACTION COMPLAINT - 1

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LAW OFFICES OF
KELLER ROHRBACK L.L.P.
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SEATTLE, WASHINGTON 98101-3052
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1 before the PBC's arbitration demand (to break the Sonics' lease at Key Arena) was publicized.

2 1.2 In July 2006, the Sonics were purchased by PBC. PBC is based in Oklahoma
3 but is registered to do business in the State of Washington and conducts business in King
4 County.
5

6 1.3 After PBC purchased the Sonics, it sent a letter to potential season ticket holders
7 guaranteeing that season ticket prices would be frozen at their current levels through the 2009-
8 2010 season. PBC promised that current season-ticket holders would not be assessed a price
9 increase for the next three seasons in exchange for renewing their season tickets. Season-ticket
10 holders who renewed received membership in the "Emerald Club." The marketing materials
11 and other statements disseminated by PBC (purposefully) created the impression that it
12 intended to keep the Sonics in Seattle (the "Emerald City") for at least the next three years.
13 This was a material factor in the decision of season ticket holders whether to renew. PBC
14 purposefully created this impression in an attempt to persuade season ticket holders to renew
15 their tickets despite the fact that it knew or should have known that the Sonics future in Seattle
16 for the next three seasons was at best uncertain and more likely than not the team was going to
17 be moved to PBC's home, Oklahoma City, Oklahoma.
18
19

20 1.4 Plaintiff Robert Brotherson relied on representations made by PBC and the
21 reasonable inferences drawn therefrom that the Sonics would remain in Seattle for at least the
22 next three seasons and that he would be able to enjoy the benefits of the Emerald Club and
23 purchase season tickets for the 2008-2009 and 2009-2010 for the same price he paid when
24 renewing his tickets for the 2007-2008 season. He purchased season tickets for the Sonics as a
25 result of PBC's representations.
26

CLASS ACTION COMPLAINT - 2

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LAW OFFICES OF
KELLER ROHRBACK L.L.P.
1201 THIRD AVENUE, SUITE 3200
SEATTLE, WASHINGTON 98101-3052
TELEPHONE: (206) 423-1800
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1 business in King County, Washington.

2 3.3 Venue is proper in this Court pursuant to RCW §§ 4.12.010(1), 4.92.010 and
3 47.60.270, in that the events or a substantial part of the events giving rise to the claims occurred
4 in King County where Plaintiff is also domiciled.
5

6 **IV. STATEMENT OF FACTS**

7 4.1 In July 2006, the Sonics were purchased by PBC.
8

9 4.2 After PBC purchased the Sonics, the organization sent a letter to potential
10 season ticket holders guaranteeing that season ticket prices would be frozen at their current
11 levels through the 2009-2010 season. PBC promised that current season-ticket holders would
12 not be assessed a price increase for the next three seasons in exchange for renewing their
13 season tickets. Season-ticket holders who renewed received membership in the "Emerald
14 Club." The marketing materials and other statements disseminated by PBC (purposefully)
15 created the impression that it intended to keep the Sonics in Seattle for at least the next three
16 years. This was a material factor in the decision of season ticket holders whether to renew.
17 PBC purposefully created this impression in an attempt to persuade season ticket holders to
18 renew their tickets despite the fact that it knew or should have known that the Sonics future in
19 Seattle for the next three seasons was at best uncertain and more likely than not the team was
20 going to be moved to PBC's home, Oklahoma City, Oklahoma.
21
22

23 4.3 Plaintiff Robert Brotherson relied on representations made by PBC and the
24 reasonable inferences drawn therefrom that the Sonics would remain in Seattle for at least the
25 next three seasons and that he would be able to enjoy the benefits of the Emerald Club and
26 purchase season tickets for the 2008-2009 and 2009-2010 for the same price he paid when

1 renewing his tickets for the 2007-2008 season. He purchased season tickets for the Sonics as a
2 result of his reliance on the PBC representations.

3
4 4.4 After PBC sent the letter referred to in the preceding paragraphs and Plaintiff
5 renewed his season tickets, representatives of PBC expressed PBC's intent to move the team
6 away from Seattle.

7
8 4.5 In August 2007, during an interview with an Oklahoma City-based newspaper,
9 Aubrey McClendon, a member of PBC, stated publicly that the ownership group "didn't buy
10 the team to keep it in Seattle, we hoped to come here [i.e. to Oklahoma City, Oklahoma]."

11
12 4.6 The Sonics and the City of Seattle are parties to a lease which requires the
13 Sonics to play all of their home games at Key Arena in Seattle, Washington through the 2009-
14 2010 season.

15
16 4.7 On or about September 21, 2007, PBC filed a Demand for Arbitration with the
17 American Arbitration Association seeking to break its lease with the City of Seattle and stop
18 playing its home games at Key Arena after the 2007-2008 basketball season.

19
20 4.8 PBC principal owner Clay Bennett has publicly stated that the demand for
21 arbitration is a step in PBC's effort to relocate the Sonics out of Seattle.

22
23 4.9 If PBC had expressed that uncertainty existed regarding the Sonics' future in
24 Seattle or that the Sonics might take steps to break its lease with the City of Seattle in order to
25 play the 2008-2009 and 2009-2010 seasons in Oklahoma City, Mr. Brotherson would not have
26 purchased or renewed his season tickets.

4.10 As a result of PBC's actions, the Plaintiff has suffered economic damages.

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V. CLASS CERTIFICATION

5.1 This action is brought as a class action under Rule 23 of the Washington Rules of Civil Procedure on behalf of all persons who purchased season tickets to the Sonics after the franchise was purchased by the Bennett ownership group and before PBC's Arbitration Demand was publicized in the Seattle Media. Plaintiff reserves the right to modify this class definition prior to moving for class certification.

5.2 Membership in the Class is so numerous as to make it impractical to bring all class members before the Court. The identity and exact number of Class members is unknown but is estimated to be at least in the thousands. Plaintiff believes that members of the Class can be easily identified through the Sonics' season ticket sales records.

5.3 Plaintiff's claims are typical of those of other Class members, all of whom have suffered harm due to Defendant's uniform course of conduct.

5.4 Plaintiff is a member of the Class.

5.5 There are numerous and substantial questions of law and fact common to all of the members of the Class which control this litigation and predominate over any individual issues pursuant to Rule 23(b)(3). The common issues include, but are not limited to, the following:

- a. Does the Washington Consumer Protection Act Apply?
- b. Did PBC represent explicitly or implicitly that the Sonics would continue to play in Seattle through the 2009-2010 season?
- c. Did PBC represent that Sonics' season ticket holders' true price of

1 attending games would be locked in at the 2007-2008 prices through the 2009-2010 season?

2 d. Were PBC's representations regarding PBC's intentions, the duration of
3 the Sonics' tenure in Seattle and the true cost of the season ticket prices and game attendance
4 false?
5

6 e. Was PBC aware or should it have been aware of the falsity of its
7 representations or the potential that they were inaccurate and/or had a tendency to mislead
8 prospective season ticket purchasers?
9

10 f. Was there a valid contract between the parties?

11 g. Were Plaintiff and Class members damaged?
12

13 5.6 A class action is the appropriate method for the fair and efficient adjudication of
14 this controversy for the following reasons:

15 a. Without a class action, the Class will continue to suffer damage,
16 Defendant's violations of the law or laws will continue without remedy, and Defendant will
17 continue to enjoy the fruits and proceeds of its unlawful misconduct;
18

19 b. Given (i) the substantive complexity of this litigation; (ii) the size of
20 individual Class members' claims; and (iii) the limited resources of the Class members, few, if
21 any, Class members could afford to seek legal redress individually for the wrongs defendant
22 has committed against them;
23

24 c. This action will foster an orderly and expeditious administration of Class
25 claims, economies of time, effort and expense, and uniformity of decision; and
26

d. This action presents no difficulty that would impede the Court's

CLASS ACTION COMPLAINT - 7

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1 management of it as a class action, and a class action is the best (if not the only) available
2 means by which members of the Class can seek legal redress for the harm caused them by
3 Defendant.

4 5 VI. CAUSES OF ACTION

6 A. Breach of Contract

7 6.1 Plaintiff realleges all prior allegations as though fully stated herein.

8
9 6.2 PBC made an offer to potential season ticket holders that if they purchased
10 season tickets for the 2007-2008 year, they would have the honor of membership in the
11 "Emerald Club" and would be guaranteed the right to purchase tickets through the 2009-2010
12 season at 2007-2008 ticket prices. Implicit in that offer was the assurance that the Sonics
13 would play in Seattle at least through the 2009-2010 season.

14
15 6.3 Although it is now clear that the representations made by PBC to Plaintiff and
16 the Class members were false, Plaintiff and Class members accepted the offer made by PBC
17 and purchased season tickets for the 2007-2008 Sonics' basketball season.

18
19 6.4 The statement by Aubrey McClendon that the PBC ownership group "didn't buy
20 the team to keep it in Seattle" establishes that the representations made to Plaintiff and the
21 Class were false.

22
23 6.5 PBC's demand for arbitration for the purpose of breaking PBC's lease with the
24 City of Seattle and Clay Bennett's confirmation that the demand for arbitration is a step in
25 PBC's efforts to relocate the Sonics out of Seattle constitute an anticipatory breach of the
26 contract between Plaintiff and the Class and PBC.

1 6.6 As a result of the breach and/or fraudulent inducement, Plaintiff and Class
2 members have suffered and will suffer damages which may fairly and reasonably be considered
3 as arising naturally from the breach or fraudulent inducement or may reasonably be supposed to
4 have been in the contemplation of the parties, at the time they made the contract, as the
5 probable result of the breach of the contract.
6

7 6.7 The amount of the damages resulting from PBC's breach of contract and/or
8 fraudulent inducement shall be determined at trial.

9 B. Unjust Enrichment

10 6.8 Plaintiff realleges all prior allegations as though fully stated herein.

11 6.9 The Defendant is and continues to be unjustly enriched by its false
12 representations as to the duration of the Sonics' tenure in Seattle.
13

14 6.10 The amount of the Defendant's unjust enrichment shall be determined at trial.
15

16 C. Violation of Washington's Consumer Protection Act Violation – RCW Ch.
17 19.86

18 6.11 At all times relevant to this action Washington had in effect RCW Ch. 19.86
19 prohibiting unfair or deceptive acts or practices in the conduct of business.
20

21 6.12 Defendant's false claims regarding the Sonics' tenure in Seattle, made for the
22 purposes of inducing potential season ticket purchases to purchase season tickets, constituted
23 unfair or deceptive acts or practices in the conduct of trade or commerce.
24

25 6.13 Defendant's acts or practices had the capacity to deceive a substantial portion of
26 the public and to affect the public interest.

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6.14 As a result of Defendant's unfair or deceptive acts or practices, Plaintiff and Class members suffered economic damages in an amount to be proven at trial.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff and Class members demand judgment against defendant as follows:

- A. A determination that the class action is a proper class action;
- B. A declaration that Defendant violated the Washington Consumer Protection Act;
- C. A declaration that Defendant breached its contract with Sonics' season ticket holders and season ticket holders are entitled to damages in an amount to be determined as a result of Defendant's breach of the contract;
- D. A judgment in favor of Plaintiff and Class members against the Defendant in such sums as shall be determined to fully and fairly compensate Plaintiffs and each individual Class member for all general, special, incidental, and consequential damages, incurred, or to be incurred by the respective Plaintiff and Class members as a proximate result of the acts and omissions of defendant;
- E. A judgment for exemplary damages, attorney fees and costs; and for
- F. Such other relief as this Court may deem just, equitable and proper.

DATED this 3rd day of October, 2007.

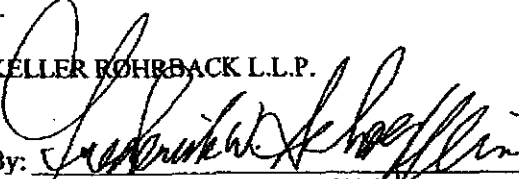
KELLER ROHRBACK L.L.P.
 By: 
 Mark A. Griffin, WSBA #16296
 Frederick W. Schoepflin, WSBA #19060
 Attorneys for Plaintiff and Proposed Class

EXHIBIT 3

RECEIVED
OCT 15 2007
11:31 am

FPS CORPORATE SERVICES, INC.
Aileen M. Martin VICE PRESIDENT
by messenger service

RECEIVED

2007 OCT 16 A 9:44

BYRNES & KELLER LLP

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

ROBERT BROTHERSON,

Plaintiff(s)

vs

THE PROFESSIONAL BASKETBALL CLUB,

Defendant(s)

NO. 07-2-32173-0 SEA

Order Setting Civil Case Schedule (*ORSCS)

ASSIGNED JUDGE Hayden 16

FILE DATE: 10/03/2007

TRIAL DATE: 03/23/2009

A civil case has been filed in the King County Superior Court and will be managed by the Case Schedule on Page 3 as ordered by the King County Superior Court Presiding Judge.

I. NOTICES

NOTICE TO PLAINTIFF: The Plaintiff may serve a copy of this **Order Setting Case Schedule (Schedule)** on the Defendant(s) along with the **Summons and Complaint/Petition**. Otherwise, the Plaintiff shall serve the **Schedule** on the Defendant(s) within 10 days after the later of: (1) the filing of the **Summons and Complaint/Petition** or (2) service of the Defendant's first response to the **Complaint/Petition**, whether that response is a **Notice of Appearance**, a response, or a Civil Rule 12 (CR 12) motion. The **Schedule** may be served by regular mail, with proof of mailing to be filed promptly in the form required by Civil Rule 5 (CR 5).

"I understand that I am required to give a copy of these documents to all parties in this case."

Print Name

Sign Name

I. NOTICES (continued)

NOTICE TO ALL PARTIES:

All attorneys and parties should make themselves familiar with the King County Local Rules [KCLR] -- especially those referred to in this *Schedule*. In order to comply with the *Schedule*, it will be necessary for attorneys and parties to pursue their cases vigorously from the day the case is filed. For example, discovery must be undertaken promptly in order to comply with the deadlines for joining additional parties, claims, and defenses, for disclosing possible witnesses [See KCLR 26], and for meeting the discovery cutoff date [See KCLR 37(g)].

CROSSCLAIMS, COUNTERCLAIMS AND THIRD PARTY COMPLAINTS:

A filing fee of \$200 must be paid when any answer that includes additional claims is filed in an existing case.

SHOW CAUSE HEARINGS FOR CIVIL CASES [King County Local Rule 4(g)]

A Confirmation of Joinder, Claims and Defenses or a Statement of Arbitrability must be filed by the deadline in the schedule. A review of the case will be undertaken to confirm service of the original complaint. A *Show Cause Hearing* will be set before the Chief Civil or RJC judge if needed. The Order to Show Cause will be mailed to the plaintiff(s) or counsel to attend.

PENDING DUE DATES CANCELED BY FILING PAPERS THAT RESOLVE THE CASE:

When a final decree, judgment, or order of dismissal of all parties and claims is filed with the Superior Court Clerk's Office, and a courtesy copy delivered to the assigned judge, all pending due dates in this *Schedule* are automatically canceled, including the scheduled Trial Date. It is the responsibility of the parties to 1) file such dispositive documents within 45 days of the resolution of the case, and 2) strike any pending motions by notifying the bailiff to the assigned judge.

Parties may also authorize the Superior Court to strike all pending due dates and the Trial Date by filing a *Notice of Settlement* pursuant to KCLR 41, and forwarding a courtesy copy to the assigned judge. If a final decree, judgment or order of dismissal of all parties and claims is not filed by 45 days after a *Notice of Settlement*, the case may be dismissed with notice.

If you miss your scheduled Trial Date, the Superior Court Clerk is authorized by KCLR 41(b)(2)(A) to present an *Order of Dismissal*, without notice, for failure to appear at the scheduled Trial Date.

NOTICES OF APPEARANCE OR WITHDRAWAL AND ADDRESS CHANGES:

All parties to this action must keep the court informed of their addresses. When a Notice of Appearance/Withdrawal or Notice of Change of Address is filed with the Superior Court Clerk's Office, parties must provide the assigned judge with a courtesy copy.

ARBITRATION FILING AND TRIAL DE NOVO POST ARBITRATION FEE:

A Statement of Arbitrability must be filed by the deadline on the schedule if the case is subject to mandatory arbitration and service of the original complaint and all answers to claims, counterclaims and cross-claims have been filed. If mandatory arbitration is required after the deadline, parties must obtain an order from the assigned judge transferring the case to arbitration. Any party filing a Statement must pay a \$220 arbitration fee. If a party seeks a trial de novo when an arbitration award is appealed, a fee of \$250 and the request for trial de novo must be filed with the Clerk's Office Cashiers.

NOTICE OF NON-COMPLIANCE FEES:

All parties will be assessed a fee authorized by King County Code 4.71.050 whenever the Superior Court Clerk must send notice of non-compliance of schedule requirements and/or Local Rule 41.

King County Local Rules are available for viewing at www.metrokc.gov/kcsc.

II. CASE SCHEDULE

CASE EVENT	DEADLINE or EVENT DATE	Filing Needed
Case Filed and Schedule Issued.	Wed 10/03/2007	*
Confirmation of Service [See KCLR 4.1].	Wed 10/31/2007	*
Last Day for Filing Statement of Arbitrability without a Showing of Good Cause for Late Filing [See KCLMAR 2.1(a) and Notices on Page 2]. \$220 arbitration fee must be paid	Wed 03/12/2008	*
DEADLINE to file Confirmation of Joinder if not subject to Arbitration. [See KCLR 4.2(a) and Notices on Page 2]. Show Cause hearing will be set if Confirmation is not filed or Box 2 is checked.	Wed 03/12/2008	*
DEADLINE for Hearing Motions to Change Case Assignment Area. [See KCLR 82(e)]	Wed 03/26/2008	
DEADLINE for Disclosure of Possible Primary Witnesses [See KCLR 26(b)].	Mon 10/20/2008	
DEADLINE for Disclosure of Possible Additional Witnesses [See KCLR 26(b)].	Mon 12/01/2008	
DEADLINE for Jury Demand [See KCLR 38(b)(2)].	Mon 12/15/2008	*
DEADLINE for Setting Motion for a Change in Trial Date [See KCLR 40(e)(2)].	Mon 12/15/2008	*
DEADLINE for Discovery Cutoff [See KCLR 37(g)].	Mon 02/02/2009	
DEADLINE for Engaging in Alternative Dispute Resolution [See KCLR 16(c)].	Mon 02/23/2009	
DEADLINE for Exchange Witness & Exhibit Lists & Documentary Exhibits [See KCLR 16(a)(4)].	Mon 03/02/2009	
DEADLINE to file Joint Confirmation of Trial Readiness [See KCLR 16(a)(2)].	Mon 03/02/2009	*
DEADLINE for Hearing Dispositive Pretrial Motions [See KCLR 56; CR 56].	Mon 03/09/2009	
Joint Statement of Evidence [See KCLR 16(a)(5)].	Mon 03/16/2009	*
Trial Date [See KCLR 40].	Mon 03/23/2009	

III. ORDER

Pursuant to King County Local Rule 4 [KCLR 4], IT IS ORDERED that the parties shall comply with the schedule listed above. Penalties, including but not limited to sanctions set forth in Local Rule 4(g) and Rule 37 of the Superior Court Civil Rules, may be imposed for non-compliance. It is FURTHER ORDERED that the party filing this action must serve this *Order Setting Civil Case Schedule* and attachment on all other parties.

DATED: 10/03/2007



 PRESIDING JUDGE

IV. ORDER ON CIVIL PROCEEDINGS FOR ASSIGNMENT TO JUDGE

READ THIS ORDER PRIOR TO CONTACTING YOUR ASSIGNED JUDGE

This case is assigned to the Superior Court Judge whose name appears in the caption of this Schedule. The assigned Superior Court Judge will preside over and manage this case for all pre-trial matters.

COMPLEX LITIGATION: If you anticipate an unusually complex or lengthy trial, please notify the assigned court as soon as possible.

The following procedures hereafter apply to the processing of this case:

APPLICABLE RULES:

a. Except as specifically modified below, all the provisions of King County Local Rules 4 through-26 shall apply to the processing of civil cases before Superior Court Judges.

CASE SCHEDULE AND REQUIREMENTS:

A. Show Cause Hearing: A Show Cause Hearing will be held before the Chief Civil/Chief RJC judge if the case does not have confirmation of service on all parties, answers to all claims, crossclaims, or counterclaims as well as the confirmation of joinder or statement of arbitrability filed before the deadline in the attached case schedule. All parties will receive an *Order to Show Cause* that will set a specific date and time for the hearing. Parties and/or counsel who are required to attend will be named in the order.

B. Pretrial Order: An order directing completion of a Joint Confirmation of Trial Readiness Report will be mailed to all parties approximately six (6) weeks before trial. This order will contain deadline dates for the pretrial events listed in King County Local Rule 16:

- 1) Settlement/Mediation/ADR Requirement;
- 2) Exchange of Exhibit Lists;
- 3) Date for Exhibits to be available for review;
- 4) Deadline for disclosure of witnesses;
- 5) Deadline for filing Joint Statement of Evidence;
- 6) Trial submissions, such as briefs, Joint Statement of Evidence, jury instructions;
- 7) voir dire questions, etc;
- 8) Use of depositions at trial;
- 9) Deadlines for nondispositive motions;
- 10) Deadline to submit exhibits and procedures to be followed with respect to exhibits;
- 11) Witnesses – identity, number, testimony;

C. Joint Confirmation regarding Trial Readiness Report: No later than twenty one (21) days before the trial date, parties shall complete and file (with a copy to the assigned judge) a joint confirmation report setting forth whether a jury demand has been filed, the expected duration of the trial, whether a settlement conference has been held, and special problems and needs (e.g. interpreters, equipment), etc. If parties wish to request a CR 16 conference, they must contact the assigned court. Plaintiff/petitioner's counsel is responsible for contacting the other parties regarding said report.

D. Settlement/Mediation/ADR:

1) **Forty five (45) days before the Trial Date**, counsel for plaintiff shall submit a written settlement demand. Ten (10) days after receiving plaintiff's written demand, counsel for defendant shall respond (with a counteroffer, if appropriate).

2) **Twenty eight (28) days before the Trial Date**, a settlement/mediation/ADR conference shall have been held. **FAILURE TO COMPLY WITH THIS SETTLEMENT CONFERENCE REQUIREMENT MAY RESULT IN SANCTIONS.**

E. Trial: Trial is scheduled for 9:00 a.m. on the date on the *Schedule* or as soon thereafter as convened by the court. The Friday before trial, the parties should access the King County Superior Court website at www.metrokc.gov/kcsc to confirm trial judge assignment. Information can also be obtained by calling (206) 205-5984.

MOTIONS PROCEDURES:

A. Noting of Motions

Dispositive Motions: All Summary Judgment or other motions that dispose of the case in whole or in part will be heard with oral argument before the assigned judge. The moving party must arrange with the courts a date and time for the hearing, consistent with the court rules.

King County Local Rule 7 and King County Local Rule 56 govern procedures for all summary judgment or other motions that dispose of the case in whole or in part. The local rules can be found at www.metrokc.gov/kcsc.

Nondispositive Motions: These motions, which include discovery motions, will be ruled on by the assigned judge without oral argument, unless otherwise ordered. All such motions must be noted for a date by which the ruling is requested; this date must likewise conform to the applicable notice requirements. Rather than noting a time of day, the *Note for Motion* should state "Without Oral Argument." King County Local Rule 7 governs these motions, which include discovery motions. The local rules can be found at www.metrokc.gov/kcsc.

Motions in Family Law Cases not involving children: Discovery motions to compel, motions in limine, motions relating to trial dates and motions to vacate judgments/dismissals shall be brought before the assigned judge. All other motions should be noted and heard on the Family Law Motions Calendar. King County Local Rule 7 and King County Family Law Local Rules govern these procedures. The local rules can be found at www.metrokc.gov/kcsc.

Emergency Motions: Emergency motions will be allowed only upon entry of an *Order*

Shortening Time. However, emergency discovery disputes may be addressed by telephone call, and without written motion, if the judge approves.

Filing of Documents All original documents must be filed with the Clerk's Office. *The working copies of all documents in support or opposition must be marked on the upper right corner of the first page with the date of consideration or hearing and the name of the assigned judge.* The assigned judge's working copy must be delivered to his/her courtroom or to the judges' mailroom. Do not file working copies with the Motions Coordinator, except those motions to be heard on the Family Law Motions Calendar, in which case the working copies should be filed with the Family Law Motions Coordinator.

Original Proposed Order: Each of the parties must include in the working copy materials submitted on any motion an original proposed order sustaining his/her side of the argument. Should any party desire a copy of the order as signed and filed by the judge, a preaddressed, stamped envelope shall accompany the proposed order.

Presentation of Orders: All orders, agreed or otherwise, must be presented to the assigned judge. If that judge is absent, contact the assigned court for further instructions. If another judge enters an order on the case, counsel is responsible for providing the assigned judge with a copy.

Proposed orders finalizing settlement and/or dismissal by agreement of all parties shall be presented to the assigned judge or in the Ex Parte Department. Formal proof in Family Law cases must be scheduled before the assigned judge by contacting the bailiff, or formal proof may be entered in the Ex Parte Department. If final orders and/or formal proof are entered in the Ex Parte Department, counsel is responsible for providing the assigned judge with a copy.

C. Form: Memoranda/briefs for matters heard by the assigned judge may not exceed twenty four (24) pages for dispositive motions and twelve (12) pages for nondispositive motions, unless the assigned judge permits over-length memoranda/briefs in advance of filing. Over-length memoranda/briefs and motions supported by such memoranda/briefs may be stricken.

IT IS SO ORDERED. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY RESULT IN DISMISSAL OR OTHER SANCTIONS. PLAINTIFF/PETITIONER SHALL FORWARD A COPY OF THIS ORDER AS SOON AS PRACTICABLE TO ANY PARTY WHO HAS NOT RECEIVED THIS ORDER.



PRESIDING JUDGE

EXHIBIT 4

FILED

FILED
07 OCT -3 PM 4: 21
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

KING CO SUPERIOR CT
BARBARA WINER
DIRECTOR & SUP CRT CLERK
SEATTLE WA

07-2-32173-0

Recpt. Date	Acct. Date	Time
10/03/2007	10/03/2007	04:22 PM
Receipt/Item #	Tran-Code	Docket-Code
2007-14-11437/01	1100	\$FFR
Cashier: RDB		

KING COUNTY SUPERIOR COURT
CASE ASSIGNMENT DESIGNATION
and
CASE INFORMATION COVER SHEET
(cics)

Paid By: KELLER, RONRBACK
Transaction Amount: \$200.00

In accordance with LR82(e), a faulty document fee of \$15 will be assessed to new case filings missing this sheet pursuant to King County Code 4.71.100.

CASE NUMBER: **07-2-32173-0SEA**

CASE CAPTION: Brotherson v. The Professional Basketball Club, LLC

I certify that this case meets the case assignment criteria, described in King County LR 82(e), for the:

Seattle Area, defined as:

All of King County north of Interstate 90 and including all of the Interstate 90 right-of-way; all the cities of Seattle, Mercer Island, Bellevue, Issaquah and North Bend; and all of Vashon and Maury Islands.

Kent Area, defined as:

All of King County south of Interstate 90 except those areas included in the Seattle Case Assignment Area.

Signature of Petitioner/Plaintiff

or

Signature of Attorney for
Petitioner/Plaintiff

19060

WSBA Number

Date

10-3-2007

Date

ORIGINAL

**KING COUNTY SUPERIOR COURT
CASE ASSIGNMENT DESIGNATION**

and

CASE INFORMATION COVER SHEET

Please check one category that best describes this case for indexing purposes. Accurate case indexing not only saves time but helps in forecasting judicial resources. A faulty document fee of \$15 will be assessed to new case filings missing this sheet pursuant to Administrative Rule 2 and King County Code 4.71.100.

APPEAL/REVIEW

- Administrative Law Review (ALR 2)*
- DOL Implied Consent—Test Refusal—only RCW 46.20.308 (DOL 2)*

CONTRACT/COMMERCIAL

- Breach of Contract (COM 2)*
- Commercial Contract (COM 2)*
- Commercial Non-Contract (COL 2)*
- Meretricious Relationship (MER 2)*
with dependent children? Y / N; pregnant? Y / N
- Third Party Collection (COL 2)*

DOMESTIC RELATIONS

- Annulment/Invalidity (INV3)*
with dependent children? Y / N; wife pregnant? Y / N
- Nonparental Custody (CUS 3)*
- Dissolution With Children (DIC 3)*
- Dissolution With No Children (DIN 3)*
wife pregnant? Y / N
- Enforcement/Show Cause- Out of County (MSC 3)
- Establish Residential Sched/Parenting Plan(PPS 3)* ££
- Establish Supprt Only (PPS 3)* ££
- Legal Separation (SEP 3)*
with dependent children? Y / N; wife pregnant? Y / N
- Mandatory Wage Assignment (MWA 3)
- Modification (MOD 3)*
- Modification - Support Only (MDS 3)*
- Out-of-state Custody Order Registration (FJU 3)
- Out-of-State Support Court Order Registration (FJU 3)
- Reciprocal, Respondent Out of County (ROC 3)
- Reciprocal, Respondent in County (RIC 3)
- Relocation Objection/Modification (MOD 3)*

ADOPTION/PATERNITY

- Adoption (ADP 5)
- Challenge to Acknowledgment of Paternity (PAT 5)*
- Challenge to Denial of Paternity (PAT 5)*
- Confidential Intermediary (MSC 5)
- Establish Parenting Plan-Existing King County Paternity (MSC 5)*
- Initial Pre-Placement Report (PPR 5)
- Modification (MOD 5)*
- Modification-Support Only (MDS 5)*
- Paternity, Establish/Disestablish (PAT 5)*
- Paternity/UIFSA (PUR 5)*
- Out-of-State Custody Order Registration (FJU 5)
- Out-of-State Support Order Registration (FJU 5)
- Relinquishment (REL 5)
- Relocation Objection/Modification (MOD 5)*
- Rescission of Acknowledgment of Paternity (PAT 5)*
- Rescission of Denial of Paternity (PAT 5)*
- Termination of Parent-Child Relationship (TER 5)

DOMESTIC VIOLENCE/ANTIHARASSMENT

- Civil Harassment (HAR 2)
- Confidential Name Change (CHN 5)
- Domestic Violence (DVP 2)
- Domestic Violence with Children (DVC 2)
- Foreign Protection Order (FPO 2)
- Sexual Assault Protection Order (SXP 2)
- Vulnerable Adult Protection (VAP 2)

££ Paternity Affidavit or Existing/Paternity is not an issue and NO other case exists in King County

* The filing party will be given an appropriate case schedule

** Case schedule will be issued after hearing and findings.

**KING COUNTY SUPERIOR COURT
CASE ASSIGNMENT DESIGNATION
and**

CASE INFORMATION COVER SHEET

Please check one category that best describes this case for indexing purposes. Accurate case indexing not only saves time but helps in forecasting judicial resources. A faulty document fee of \$15 will be assessed to new case filings missing this sheet pursuant to Administrative Rule 2 and King County Code 4.71.100.

PROPERTY RIGHTS

- Condemnation/Eminent Domain (CON 2)*
- Foreclosure (FOR 2)*
- Land Use Petition (LUP 2)*
- Property Fairness (PFA 2)*
- Quiet Title (QTI 2)*
- Unlawful Detainer (UND 2)

JUDGMENT

- Confession of Judgment (MSC 2)*
- Judgment, Another County, Abstract (ABJ 2)
- Judgment, Another State or Country (FJU 2)
- Tax Warrant (TAX 2)
- Transcript of Judgment (TRJ 2)

OTHER COMPLAINT/PETITION

- Action to Compel/Confirm Private Binding Arbitration (MSC 2)
- Certificate of Rehabilitation (MSC 2)
- Change of Name (CHN 2)
- Deposit of Surplus Funds (MSC 2)
- Emancipation of Minor (EOM 2)
- Frivolous Claim of Lien (MSC 2)
- Injunction (INJ 2)*
- Interpleader (MSC 2)
- Malicious Harassment (MHA 2)*
- Non-Judicial Filing (MSC 2)
- Other Complaint/Petition (MSC 2)*
- Seizure of Property from the Commission of a Crime (SPC 2)*
- Seizure of Property Resulting from a Crime (SPR 2)*
- Structured Settlements (MSC 2)*
- Subpoena (MSC 2)

PROBATE/GUARDIANSHIP

- Absentee (ABS 4)
- Disclaimer (DSC4)
- Estate (EST 4)
- Foreign Will (FNW 4)
- Guardian (GDN4)
- Limited Guardianship (LGD 4)
- Minor Settlement (MST 4)
- Notice to Creditors – Only (NNC 4)
- Trust (TRS 4)
- Trust Estate Dispute Resolution Act/POA (TDR 4)
- Will Only—Deceased (WLL4)

TORT, MEDICAL MALPRACTICE

- Hospital (MED 2)*
- Medical Doctor (MED 2)*
- Other Health Care Professional (MED 2)*

TORT, MOTOR VEHICLE

- Death (TMV 2)*
- Non-Death Injuries (TMV 2)*
- Property Damage Only (TMV 2)*
- Victims Vehicle Theft (VVT 2)*

TORT, NON-MOTOR VEHICLE

- Asbestos (PIN 2)**
- Implants (PIN 2)
- Other Malpractice (MAL 2)*
- Personal Injury (PIN 2)*
- Products Liability (TTO 2)*
- Property Damage (PRP 2)*
- Wrongful Death (WDE 2)*
- Tort, Other (TTO 2)*

WRIT

- Habeas Corpus (WHC 2)
- Mandamus (WRM 2)**
- Review (WRV 2)**

* The filing party will be given an appropriate case schedule. ** Case schedule will be issued after hearing and findings.

EXHIBIT 5

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SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

ROBERT BROTHERSON, individually and on)
behalf of all others similarly situated,)

Plaintiff,)

v.)

THE PROFESSIONAL BASKETBALL)
CLUB, L.L.C, an Oklahoma limited liability)
company registered to do business in the State)
of Washington,)

Defendant.)

No. 07-2-32173-0SEA

NOTICE OF APPEARANCE

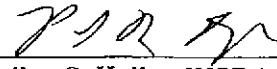
TO: Plaintiff Robert Brotherson,

AND TO: His counsel of record:

PLEASE TAKE NOTICE that the appearance of defendant The Professional Basketball Club, L.L.C., is hereby entered in the above-entitled action through the undersigned attorneys. You are directed to serve all future pleadings or papers, except original process, upon the following attorneys at the address indicated.

DATED this 16th day of October, 2007.

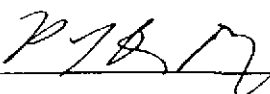
BYRNES & KELLER LLP

By 
Bradley S. Keller, WSBA #10665
Paul R. Taylor, WSBA #14851
Attorneys for Defendant
The Professional Basketball Club, L.L.C.

CERTIFICATE OF SERVICE

The undersigned attorney certifies that on the 16th day of October, 2007, a true copy of the foregoing pleading was served upon the following individuals via hand delivery:

Mark A. Griffin
Frederick W. Schoepflin
Keller Rohrback L.L.P
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
Counsel for Plaintiff Robert Brotherson



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EXHIBIT 6

FILED
2007 OCT 19 AM 11:04
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

**SUPERIOR COURT, IN AND FOR THE COUNTY OF KING, STATE OF
WASHINGTON**

ROBERT BROTHERRSON, INDIVIDUALLY
AND ON BEHALF OF ALL OTHER SIMILARLY
SITUATED

Plaintiff/Petitioner

vs.
THE PROFESSIONAL BASKETBALL CLUB, L.L.C.
AN OKLAHOMA LIMITED LIABILITY COMPANY
REGISTERED TO DO BUSINESS IN THE
STATE OF WASHINGTON

Defendant/Respondent

Cause #: 07-2-32173-0
SEA

Declaration of Service of:

SUMMONS AND CLASS ACTION COMPLAINT; ORDER
SETTING CIVIL CASE SCHEDULE

Hearing Date:

Declaration:

The undersigned hereby declares: That s(he) is now and at all times herein mentioned, a citizen of the United States and a resident of the State of Washington, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, and is competent to be a witness therein.

On the date and time of Oct 15 2007 11:31AM at the address of 1111 3RD AVE SUITE 3400 SEATTLE, within the County of KING, State of WASHINGTON, the declarant duly served the above described documents upon THE PROFESSIONAL BASKETBALL CLUB, L.L.C., AN OKLAHOMA LIMITED LIABILITY COMPANY REGISTERED TO DO BUSINESS IN THE STATE OF WASHINGTON by then and there personally delivering 1 true and correct copy(ies) thereof, by then presenting to and leaving the same with COLLEEN M. MARCIN, VICE PRESIDENT IN THE OFFICE OF FPS CORP. SVC. INC., REGISTERED AGENT.

No information was provided that indicates that the subjects served are members of the U.S. military.

I hereby declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated: October 17, 2007 at Seattle, WA

by


J. Bradford

Service Fee Total: \$ 49.85

ABC Legal Services, Inc.
206 521-9000
Tracking #: 4926670



**ORIGINAL
PROOF OF SERVICE**

Keller, Rohrback L.L.P.
1201 3rd Ave, #3200
Seattle, WA 98101
206 623-1900

RECEIVED
ADDRESS MAIL ROOM

2003 OCT -3 PM 4:29

KING COUNTY
SUPERIOR COURT

BEST AVAILABLE IMAGE POSSIBLE

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

ROBERT BROTHERSON, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

THE PROFESSIONAL BASKETBALL
CLUB, L.L.C. an Oklahoma limited liability
company registered to do business in the State
of Washington,

07 - 2 - 32 173 - USEA

No.

SUMMONS [20 days]

TO: THE PROFESSIONAL BASKETBALL CLUB, L.L.C., Defendant(s)

1. A lawsuit has been started against you in the above-entitled court by the plaintiff.

2. Plaintiff's claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

3. In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and serve a copy upon the undersigned person:

within twenty (20) days (if service is made on you within the State of Washington); or

within sixty (60) days (if service is made on you outside the State of Washington).

SUMMONS - 1

EXHIBIT 7

Byrnes + Keller

RECEIVED

2007 OCT 26 A 9:39

BYRNES + KELLER LLP

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

ROBERT BROTHERSON, PATRICK SHEEHY, and CAROLYN BECHTEL, individually and on behalf of all others similarly situated,

No. 07-2-32173-0 SEA

FIRST AMENDED CLASS ACTION COMPLAINT

Plaintiff,

v.

THE PROFESSIONAL BASKETBALL CLUB, L.L.C. an Oklahoma limited liability company registered to do business in the State of Washington,

Defendant.

Plaintiffs, Robert Brotherson, Patrick Sheehy, and Carolyn Bechtel ("Plaintiffs") by their undersigned attorneys, allege upon personal knowledge as to themselves and their own acts, and upon information and belief (based upon the investigation of their counsel) as to all other matters, as to which allegations they believe substantial evidentiary support will exist after a reasonable opportunity for further investigation and discovery as follows:

I. NATURE OF ACTION

I.1 Plaintiffs bring this action as a Class Action pursuant to Rules 23(a), (b)(1), (b)(2) and (b)(3) of the Washington Rules of Civil Procedure on behalf of all persons who

1 purchased season tickets for the Seattle Supersonics basketball franchise ("the Sonics") after
2 the club was purchased by The Professional Basketball Club, L.L.C. ("PBC") in July 2006 and
3 before the PBC's arbitration demand (to break the Sonics' lease at Key Arena) was publicized.
4

5 1.2 In July 2006, the Sonics were purchased by PBC. PBC is based in Oklahoma
6 but is registered to do business in the State of Washington and conducts business in King
7 County.

8 1.3 After PBC purchased the Sonics, it sent a letter to potential season ticket holders
9 guaranteeing that season ticket prices would be frozen at their current levels through the 2009-
10 2010 season. PBC promised that current season-ticket holders would not be assessed a price
11 increase for the next three seasons in exchange for renewing their season tickets. Season-ticket
12 holders who renewed received membership in the "Emerald Club." The marketing materials
13 and other statements disseminated by PBC (purposefully) created the impression that it
14 intended to keep the Sonics in Seattle (the "Emerald City") for at least the next three years.
15 This was a material factor in the decision of season ticket holders whether to renew. PBC
16 purposefully created this impression in an attempt to persuade season ticket holders to renew
17 their tickets despite the fact that it knew or should have known that the Sonics future in Seattle
18 for the next three seasons was at best uncertain and more likely than not the team was going to
19 be moved to PBC's home, Oklahoma City, Oklahoma. PBC failed to disclose that it intended
20 to attempt to break the lease between the Sonics and Key Arena and/or to attempt to move the
21 Sonics to another venue prior to expiration of the Key Arena lease.
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25 1.4 Plaintiffs relied on representations made by PBC and the reasonable inferences
26 drawn therefrom that the Sonics would remain in Seattle for at least the next three seasons and

1 that they would be able to enjoy the benefits of the Emerald Club and purchase season tickets
2 for the 2008-2009 and 2009-2010 for the same price they paid when renewing his tickets for
3 the 2007-2008 season. They purchased season tickets for the Sonics as a result of PBC's
4 representations.

5
6 1.5 After PBC made the representations described in paragraph 1.3 and Plaintiffs
7 renewed their season tickets, representatives of PBC expressed PBC's intent to move the team
8 away from Seattle.

9
10 1.6 The Sonics and the City of Seattle are parties to a lease which requires the
11 Sonics to play all of their home games at Key Arena in Seattle, Washington through the 2009-
12 2010 season.

13
14 1.7 On or about September 21, 2007, PBC filed a Demand for Arbitration with the
15 American Arbitration Association seeking to break its lease with the City of Seattle and stop
16 playing its home games at Key Arena after the 2007-2008 basketball season. This demand for
17 arbitration is one step in PBC's overall plan to move the Sonics out of Seattle.

18 1.8 As a result of the PBC's actions, the Plaintiffs have suffered economic damage.

20 II. PARTIES

21 2.1 Plaintiff, Robert Brotherson has at all material times been a resident of Seattle,
22 Washington.

23
24 2.2 Plaintiff, Patrick Sheehy has at all material times been a resident of Seattle,
25 Washington.

26 2.3 Plaintiff, Carolyn Bechtel has at all material times been a resident of Kirkland,

1 Washington.

2 2.4 Defendant, The Professional Basketball Club, L.L.C., is a limited liability
3 company which is registered to do business in Washington State.
4

5 III. JURISDICTION AND VENUE

6 3.1 Subject matter jurisdiction is proper under the Washington Consumer Protection
7 ACT ("WCPA"), RCW § 19.86, *et seq.* and the Uniform Declaratory Judgment Act, RCW §
8 7.72.010, *et seq.*
9

10 3.2 This Court has personal jurisdiction over the defendant because it conducts
11 business in King County, Washington.

12 3.3 Venue is proper in this Court pursuant to RCW §§ 4.12.010(1), 4.92.010 and
13 47.60.270, in that the events or a substantial part of the events giving rise to the claims occurred
14 in King County where Plaintiffs are also domiciled.
15

16 IV. STATEMENT OF FACTS

17 4.1 In July 2006, the Sonics were purchased by PBC.
18

19 4.2 After PBC purchased the Sonics, the organization sent a letter to potential
20 season ticket holders guaranteeing that season ticket prices would be frozen at their current
21 levels through the 2009-2010 season. PBC promised that current season-ticket holders would
22 not be assessed a price increase for the next three seasons in exchange for renewing their
23 season tickets. Season-ticket holders who renewed received membership in the "Emerald
24 Club." The marketing materials and other statements disseminated by PBC (purposefully)
25 created the impression that it intended to keep the Sonics in Seattle for at least the next three
26

1 years. This was a material factor in the decision of season ticket holders whether to renew.
2 PBC purposefully created this impression in an attempt to persuade season ticket holders to
3 renew their tickets despite the fact that it knew or should have known that the Sonics future in
4 Seattle for the next three seasons was at best uncertain and more likely than not the team was
5 going to be moved to PBC's home, Oklahoma City, Oklahoma. PBC failed to disclose that it
6 intended to attempt to break the lease between the Sonics and Key Arena and/or to attempt to
7 move the Sonics to another venue prior to expiration of the Key Arena lease.
8

9 4.3 Plaintiffs relied on representations made by PBC and the reasonable inferences
10 drawn therefrom that the Sonics would remain in Seattle for at least the next three seasons and
11 that they would be able to enjoy the benefits of the Emerald Club and purchase season tickets
12 for the 2008-2009 and 2009-2010 for the same price they paid when renewing his tickets for
13 the 2007-2008 season. They purchased season tickets for the Sonics as a result of their reliance
14 on the PBC representations.
15

16 4.4 After PBC sent the letter referred to in the preceding paragraphs and Plaintiffs
17 renewed their season tickets, representatives of PBC expressed PBC's intent to move the team
18 away from Seattle.
19

20 4.5 In August 2007, during an interview with an Oklahoma City-based newspaper,
21 Aubrey McClendon, a member of PBC, stated publicly that the ownership group "didn't buy
22 the team to keep it in Seattle, we hoped to come here [i.e. to Oklahoma City, Oklahoma]."
23

24 4.6 The Sonics and the City of Seattle are parties to a lease which requires the
25 Sonics to play all of their home games at Key Arena in Seattle, Washington through the 2009-
26 2010 season.

1 suffered harm due to Defendant's uniform course of conduct.

2 5.4 Plaintiffs are members of the Class.

3
4 5.5 There are numerous and substantial questions of law and fact common to all of
5 the members of the Class which control this litigation and predominate over any individual
6 issues pursuant to Rule 23(b)(3). The common issues include, but are not limited to, the
7 following:

8 a. Does the Washington Consumer Protection Act Apply?

9
10 b. Did PBC represent explicitly or implicitly that the Sonics would continue
11 to play in Seattle through the 2009-2010 season?

12
13 c. Did PBC represent that Sonics' season ticket holders' true price of
14 attending games would be locked in at the 2007-2008 prices through the 2009-2010 season?

15
16 d. Were PBC's representations regarding PBC's intentions, the duration of
17 the Sonics' tenure in Seattle and the true cost of the season ticket prices and game attendance
18 false?

19
20 e. Was PBC aware or should it have been aware of the falsity of its
21 representations or the potential that they were inaccurate and/or had a tendency to mislead
22 prospective season ticket purchasers?

23 f. Was there a valid contract between the parties?

24 g. Were Plaintiffs and Class members damaged?

25
26 5.6 A class action is the appropriate method for the fair and efficient adjudication of
this controversy for the following reasons:

1 a. Without a class action, the Class will continue to suffer damage,
2 Defendant's violations of the law or laws will continue without remedy, and Defendant will
3 continue to enjoy the fruits and proceeds of its unlawful misconduct;
4

5 b. Given (i) the substantive complexity of this litigation; (ii) the size of
6 individual Class members' claims; and (iii) the limited resources of the Class members, few, if
7 any, Class members could afford to seek legal redress individually for the wrongs defendant
8 has committed against them;

9 c. This action will foster an orderly and expeditious administration of Class
10 claims, economies of time, effort and expense, and uniformity of decision; and
11

12 d. This action presents no difficulty that would impede the Court's
13 management of it as a class action, and a class action is the best (if not the only) available
14 means by which members of the Class can seek legal redress for the harm caused them by
15 Defendant.
16

17 VI. CAUSES OF ACTION

18 A. Breach of Contract

19 6.1 Plaintiffs reallege all prior allegations as though fully stated herein.
20

21 6.2 PBC made an offer to potential season ticket holders that if they purchased
22 season tickets for the 2007-2008 year, they would have the honor of membership in the
23 "Emerald Club" and would be guaranteed the right to purchase tickets through the 2009-2010
24 season at 2007-2008 ticket prices. Implicit in that offer was the assurance that the Sonics
25 would play in Seattle at least through the 2009-2010 season.
26

1 6.3 Although it is now clear that the representations made by PBC to Plaintiffs and
2 the Class members were false, Plaintiffs and Class members accepted the offer made by PBC
3 and purchased season tickets for the 2007-2008 Sonics' basketball season.

4
5 6.4 The statement by Aubrey McClendon that the PBC ownership group "didn't buy
6 the team to keep it in Seattle" establishes that the representations made to Plaintiffs and the
7 Class were false.

8 6.5 PBC's demand for arbitration for the purpose of breaking PBC's lease with the
9 City of Seattle and Clay Bennett's confirmation that the demand for arbitration is a step in
10 PBC's efforts to relocate the Sonics out of Seattle constitute an anticipatory breach of the
11 contract between Plaintiffs and the Class and PBC.

12
13 6.6 As a result of the breach and/or fraudulent inducement, Plaintiffs and Class
14 members have suffered and will suffer damages which may fairly and reasonably be considered
15 as arising naturally from the breach or fraudulent inducement or may reasonably be supposed to
16 have been in the contemplation of the parties, at the time they made the contract, as the
17 probable result of the breach of the contract.

18
19 6.7 The amount of the damages resulting from PBC's breach of contract and/or
20 fraudulent inducement shall be determined at trial.

21
22 B. Unjust Enrichment

23 6.8 Plaintiffs reallege all prior allegations as though fully stated herein.

24 6.9 The Defendant is and continues to be unjustly enriched by its false
25 representations as to the duration of the Sonics' tenure in Seattle.
26

1 6.10 The amount of the Defendant's unjust enrichment shall be determined at trial.

2 C. Violation of Washington's Consumer Protection Act Violation
3 (RCW Ch. 19.86)

4 6.11 Plaintiffs reallege all prior allegations as though fully stated herein.

5 6.12 At all times relevant to this action Washington had in effect RCW Ch. 19.86
6 prohibiting unfair or deceptive acts or practices in the conduct of business.
7

8 6.13 Defendant's false claims regarding the Sonics' tenure in Seattle, made for the
9 purposes of inducing potential season ticket purchases to purchase season tickets, constituted
10 unfair or deceptive acts or practices in the conduct of trade or commerce.
11

12 6.14 Defendant's acts or practices had the capacity to deceive a substantial portion of
13 the public and to affect the public interest.

14 6.15 As a result of Defendant's unfair or deceptive acts or practices, Plaintiffs and
15 Class members suffered economic damages in an amount to be proven at trial.
16

17 D. Declaratory Relief Under the Washington Declaratory Judgment Act
18 (RCW 7.24)

19 6.16 Plaintiffs reallege all prior allegations as though fully stated herein.

20 6.17 PBC promised Plaintiffs and other purchasers of season tickets for the Sonics'
21 2007-2008 season that they would have the opportunity to renew their season tickets through
22 the 2009-2010 for the same 2007-2008 price.
23

24 6.18 PBC had now stated its intention to break its lease for the playing of games at
25 Key Arena in Seattle and to move the Sonics to a different venue.

26 6.19 There is an actual, present, and existing dispute between Plaintiffs and PBC,

1 involving direct and substantial interests, regarding whether PBC's promise of a freeze in ticket
2 prices for season subscribers can be satisfied by an offer of tickets in a venue other than Key
3 Arena in Seattle. This dispute is appropriate for resolution by the Court under the Washington
4 Declaratory Judgment Act.

5
6 E. Injunctive Relief

7 6.20 Plaintiffs reallege all prior allegations as though fully stated herein.

8 6.21 Implicit in PBC's assurance to Plaintiffs that they will be able to purchase
9 season tickets for future seasons at the same price as they paid for the 2007-2008 season, is a
10 promise that the Sonics will continue to play in Key Arena in Seattle during those future
11 seasons.
12

13 6.22 Based upon PBC's current attempt to break its lease with the City of Seattle and
14 its representations that it intends to move the Sonics to a different venue, Plaintiffs request and
15 are entitled to an injunction forbidding PBC from breaking its lease and/or moving the Sonics to
16 a new venue, prior to the end of the 2009-2010 season.
17

18 **VII. PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiffs and Class members demand judgment against defendant as
20 follows:
21

- 22 A. A determination that the class action is a proper class action;
23 B. A declaration that Defendant violated the Washington Consumer Protection Act;
24 C. A declaration that Defendant breached its contract with Sonics' season ticket
25 holders and season ticket holders are entitled to damages in an amount to be determined as a
26 result of Defendant's breach of the contract;

1 D. A declaration that an offer of season tickets in a new venue would not satisfy
2 Defendant's obligation to Plaintiffs and Cass members to make available to them season tickets
3 through the 2009-2010 season at the same price they paid for the 2007-2008 season.

4 E. An injunction prohibiting Defendant to move the Sonics to new venue, other
5 than Key Arena in Seattle, prior to the expiration of the current lease with the City of Seattle at
6 the end of the 2009-2010 season.

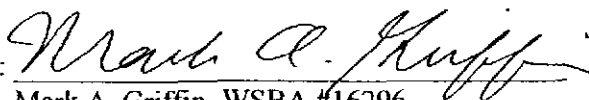
7
8 F. A judgment in favor of Plaintiffs and Class members against the Defendant in
9 such sums as shall be determined to fully and fairly compensate Plaintiffs and each individual
10 Class member for all general, special, incidental, and consequential damages, incurred, or to be
11 incurred by the respective Plaintiffs and Class members as a proximate result of the acts and
12 omissions of defendant;

13
14 G. A judgment for exemplary damages, attorney fees and costs; and for


15 H. Such other relief as this Court may deem just, equitable and proper.

16 DATED this 25th day of October, 2007.

17
18 KELLER ROHRBACK L.L.P.

19 By: 
20 Mark A. Griffin, WSBA #16296
21 Frederick W. Schoepflin, WSBA #19060

22 MYERS & COMPANY, P.L.L.C.

23
24 By: 
25 Michael David Myers, WSBA #22486

26 Attorneys for Plaintiffs and Proposed Class

EXHIBIT 8

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The Honorable Michael Hayden

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BYRNEL KELLER LLP

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SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

ROBERT BROTHERRSON, PATRICK
SHEHEE, and CAROLYN BECHTEL,
individually and on behalf of all others
similarly situated,

No. 07-2-32173-0 SEA

CONFIRMATION OF SERVICE

Plaintiff,

v.

THE PROFESSIONAL BASKETBALL
CLUB, L.L.C. an Oklahoma limited liability
company registered to do business in the State
of Washington,

Defendant.

All the named defendants have been served or have waived service. (Check if appropriate; otherwise, check the box below.)

One or more named defendants have not yet been served. (If this box is checked, the following information must also be provided.)

The following defendants have been served or have waived service:

The following defendants have not yet been served:

Reasons why service has not been obtained:

CONFIRMATION OF SERVICE - 1

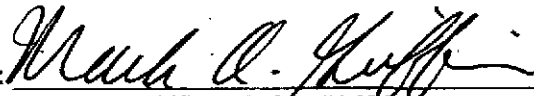
1 How service will be obtained:
2

3 _____
4 Date by which service is expected to be obtained:
5 _____

6 No other named defendants remain to be served.

7 DATED this 31st day of October, 2007.

8 KELLER ROHRBACK L.L.P.

9
10 By: 

11 Mark A. Griffin, WSBA #16296

12 Frederick W. Schoepflin, WSBA #19060

13 MYERS & COMPANY, P.L.L.C.

14 Michael David Myers, WSBA #22486

15 Attorneys for Plaintiffs and Proposed Class
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CONFIRMATION OF SERVICE - 2

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