



TO / À: Provincial Union President

FROM / DE: **Hans DeGoede**, former Rugby Canada Board member and Chair of Rugby Canada's Risk Committee
Mike Williams, former president of Rugby Ontario and Rugby Ontario's Representative

CC: CC Rugby Canada Board of Directors
Provincial Union Staff

DATE: Monday, 31 March 2008

SUBJECT/OBJECT: Sean Corner Legal Settlement

Dear President:

We are writing to summarize discussions and decisions made with respect to the Sean Corner situation. Please feel free to share this letter with your clubs and to post on your website.

Summary

The rugby community as represented by Rugby Canada and the provincial unions unanimously have endorsed a legal settlement with Sean Corner and his family. Sean broke his back in a rugby match in September of 2006 at the very start of a 10 week period when Rugby Canada had no catastrophic insurance coverage. This settlement will require a levy on each Rugby Canada registrant of \$7.06 for each of the next three years. The money will be held in a trust account as it is collected and will only be used to pay the legal settlement and related direct legal costs. Any excess will be returned to the registrants. All who took part in the settlement negotiations acted in the best interests of Sean and the rugby community. If such negotiations are needed in the future, lessons learned from these negotiations will be used to make the process even more successful and as transparent and as effective as possible.

Sean and his family are to be congratulated for their willingness to reach an amicable solution. In addition, the insurance company (Lloyd's and the insurance representative, Sport-Can, are to be thanked for their constructive support of the settlement.

Detail

On the afternoon of Sept 9, 2006, Sean Corner, a 21-year old scrum half with the Hamilton Hornets broke his back while being tackled in a sanctioned exhibition match. He is a paraplegic (spine crushed at T11). Compounding this tragedy was the fact that Rugby Canada's Catastrophic Rider (which provided to qualified claimants \$500,000 one year after such an accident without any proof of liability) had been withdrawn by the insurance company due to claims made the previous year and the inability of Rugby Canada and the insurance providers to agree on a replacement policy.

This past summer and fall the Corner family launched a series of lawsuits against many involved including the insurance carrier, agent, broker, Rugby Canada, Rugby Ontario, Niagara Rugby Union, Hamilton Hornets, several individuals involved with the situation and threatened to widen the suit to include the referee, the tackler, and the coaches. They claimed that Sean never knew that the





catastrophe insurance had been cancelled and that if he had known, he would not have played (his father is an insurance agent and Sean was and is in training to be an adjuster). And they claimed that there was liability in the mismanagement of the on-field situations that led to the injury.

Sean and his family have always been impressed by the support of the rugby community and have expressed their desire for an amicable settlement. Thus they were open to a mediation process which was held on Nov 27th, 2007. We (the rugby community, the insurance companies and the Corners) reached an agreement through the supportive efforts of all involved, including about 10 lawyers that were present. The mediation was managed by a retired Ontario superior court judge, Doug Lissaman. A first payment has been made by the insurance companies and all named and unnamed defendants have been given a release.

While the specific terms of the settlement are confidential, we can tell you that the insurance company (Lloyds and their Canadian agent, Sport-Can) agreed and have paid a substantial amount of the settlement, even though they have maintained that some, and maybe all, of the key issues involved were not covered at the time. Given some of the debatable issues, this indicates a degree of co-operation from them that we in the rugby community should appreciate. Also, the Corners accepted that the settlement had to be paid out over time or it would have created a very serious financial crisis within rugby.

Financially, for the rugby community, the settlement requires a special seven dollar (\$7.06) charge per registrant for all classes of registration for 2008, 2009 and 2010. The net cost implication varies for each province compared to what was charged last year.

The negotiating 'committee' from the Rugby community (led by Hans de Goede of Rugby Canada, Mike Williams of Rugby Ontario and Graham Brown of Rugby Canada) approached the mediation with the following in mind:

- Moral fairness. The rugby community paid for \$500,000 no-fault catastrophe injury insurance up until Sept 7th 2006 and then again after Nov 17, 2006. Considerations of fairness led us to conclude that there was some significant responsibility to cover the intervening time period.
- Avoidance of a costly and messy lawsuit. A mediated settlement means an avoidance of a major lawsuit that could potentially have been very damaging to rugby in Ontario and Canada. Whether or not the Corner's could have ultimately proved their case in court, our lawyers advised us that they had a solid-enough case to get to trial which would have generated huge legal bills, plenty of bad publicity and the possibility of large, uninsured payments. It would have also divided the rugby community as each element sought to avoid blame and liability.
- Any settlement would need to take into consideration the amounts already contributed by many in the rugby community. We are pleased to report that the settlement terms did just that.
- Any settlement would need to bring the insurance parties to the table since they would have some exposure and would also want to be released from all future claims (and have much deeper pockets than any of us). We are very pleased to report that this also was the case.

Yours sincerely

Hans DeGoede

Hans de Goede
Chair, Insurance Committee, Rugby Canada

Mike Williams

Mike Williams
Former President, Rugby Ontario

