

2017-000825-2

CAUSE NO. \_\_\_\_\_

PRATIK KHANDELWAL, as Next Friend	§	IN THE COUNTY COURT
of K.K. a Minor and all others similarly	§	
situated,	§	
	§	
Plaintiffs	§	
	§	
v.	§	AT LAW NO. _____
	§	
THE UNIVERSITY INTERSCHOLASTIC	§	
LEAGUE,	§	
	§	
Defendant	§	TARRANT COUNTY, TEXAS

**ORIGINAL PETITION AND APPLICATION  
FOR TEMPORARY RESTRAINING ORDER**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW PLAINTIFFS, complaining of THE UNIVERSITY INTERSCHOLASTIC LEAGUE, and for causes of action would respectfully show unto the Court as follows:

**I.  
DISCOVERY**

Discovery in this matter is to be conducted under Level 1 of Rule 190 of the *TEXAS RULES OF CIVIL PROCEDURE*. Plaintiffs seek less than \$100,000 and non-monetary relief. In fact, Plaintiffs seek no monetary relief in this matter at this time.

**II.  
THE PARTIES**

1. Plaintiff PRATIK KHANDELWAL is a resident of Dallas County. He is the parent of K.K., a minor. He brings this action on behalf of his minor daughter and other similarly situated female wrestlers in the State of Texas.

2. Defendant UNIVERSITY INTERSCHOLASTIC LEAGUE (“UIL”) is an instrumentality of the University of Texas. It may be served with process through its executive director, Mr. Charles Breithaupt, 1701 Manor Road, Austin, Texas 78722.

**III.  
JURISDICTION AND VENUE**

3. The Court has jurisdiction over this cause because the amount in controversy is within the jurisdictional limits of the Court.

4. Venue is proper in Tarrant County, Texas pursuant to Chapter 15 of the *TEXAS CIVIL PRACTICE & REMEDIES CODE*, as all or a substantial part of the events giving rise to the Plaintiffs’ claims occurred in Tarrant County. Moreover, as pointed out in more detail hereinbelow, the high school and athlete that are the primary subject of this suit are located in and residents of Tarrant County.

**IV.  
BACKGROUND FACTS**

5. Relief Sought This is an action that seeks to force the UIL to do that which the law already requires it to do – suspend an athlete who is knowingly breaking the rules by taking a performance-enhancing drug (anabolic steroids, namely testosterone). Plaintiffs seek a restraining order seeking to compel the UIL

to take this action because the entire high school wrestling season will be over on February 25, 2017, **so time is of the essence.**

6. In 2005, the Texas legislature added Section 33.091 to the Education Code, requiring the UIL to conduct steroid testing on high school athletes and to provide for a period of ineligibility for athletes using steroids in violation of UIL rules. The UIL is an instrumentality of the University of Texas system and oversees all athletic competition for public high schools in the state of Texas.

7. Beginning in approximately Fall of 2015, wrestlers and other athletes in the DFW area and throughout the state became aware of a female athlete (a female wrestler) from Euless-Trinity High School, who was posting photos and videos of herself concerning her use of and the changes resulting from her use of testosterone. Testosterone is classified as an anabolic steroid by the World Anti-Doping Agency (WADA) and United States Anti-Doping Agency (USADA) and is a Schedule III drug by the FDA and the State of Texas (H&S Code, Chapter 481). This athlete is still a minor and her identity is being protected in this Petition and she is being identified herein by her initials (M.B.). Evidence of this athlete's testosterone use is widespread across social media over the last year (as evidenced by the online posts being submitted directly to the Court for *in camera* inspection). The online posts are replete with irrefutable evidence that this athlete is taking testosterone and is enjoying the benefits of its "changes" in her physical appearance and enhancements to her athletic performance. The Defendant has also acknowledged its actual

knowledge of this athlete's use of testosterone in writing (see materials being submitted to the Court).

8. Plaintiff brings this action on behalf of his own minor daughter (K.K.). K.K. has already wrestled M.B. during the 2016-17 season and is likely to face M.B. again at the Regional tournament (to be held at Allen High School the weekend of February 17-18, 2017). Other persons affected by this Court's ruling on this matter include all other female athletes in the 110 pound (6A) weight class who could possibly compete against M.B. at the District tournament on February 11, the Regional tournament and the UIL State tournament on February 24-25, 2017.

9. In early December of 2016, the mother of one athlete who wrestled against M.B. at a tournament contacted the UIL about making a complaint concerning M.B.. The UIL essentially disregarded the complaint, expressed no concern for either the safety of the other athletes or the "fairness" of the situation, but made a point to emphasize to the concerned parent that all complaints would be **publicly known**. The undersigned counsel has written the UIL on at least 2 occasions to re-assert the complaints of the athletes, parents and coaches involved in this matter to seek the suspension of M.B. from any further competition and the UIL's responses (or, rather, lack thereof) are being submitted to the Court.

10. Plaintiffs would show that the UIL is refusing to enforce Section 33.091 of the Education Code, as well as its own rules and constitution, and is subjecting Plaintiffs and other athletes to **imminent threat of bodily harm**. Accordingly, Plaintiffs seek an order from this Court immediately prohibiting the UIL from

allowing M.B. to compete in any further UIL wrestling competition for the remainder of the 2016-17 season. In the alternative, the UIL must be ordered to suspend this athlete from any further UIL girls' wrestling competition for the remainder of the 2016-17 season.

V.

**APPLICABLE LAW – EDUCATION CODE §33.091 AND 33.091(h); HEALTH AND SAFETY CODE CHAPTER 481**

11. Plaintiffs incorporate paragraphs 1 through 10 by reference for all purposes.
12. As noted above, Section 33.091 to the Education Code is a mandate from the Texas Legislature to the UIL to implement a steroid policy. The UIL has **actual knowledge** that M.B. has taken anabolic steroids (testosterone) but refuses to suspend her. The UIL does not deny that it has jurisdiction to suspend this athlete (see letters from the UIL being produced to the Court) but rather apparently contends that this athlete is allowed to take steroids (to **cheat**) and still maintain eligibility because of a “safe harbor” provision of 33.091 (specifically, 33.091(h)), which allows athletes to take steroids under **very limited circumstances** if they have a **“valid medical purpose”**. Plaintiffs would show that this “safe harbor” provision does not apply to M.B. and the UIL must suspend her immediately.
13. The exact text of §33.091(h) reads as follows:

*Subsection (b)(1) does not apply to the use by a student of a steroid that is dispensed, prescribed, delivered, **and** administered by a medical practitioner for a **valid medical purpose** and in the course of professional practice, and a student is not subject to a period of ineligibility under Subsection (d)(6) on the basis of that steroid use (emphasis added).*

14. Plaintiffs would show that this “safe harbor” provision does **NOT** apply to M.B. because: (1) Plaintiffs and the UIL have evidence that the steroids being taken by M.B. were not “administered” by a medical practitioner; and (2) these steroids were not for a “valid medical purpose”.

15. **No proper administration.** The term “*administer*” is a defined term under §481.002 of the Health and Safety Code.

*Administer means to directly apply a controlled substance by injection, inhalation, ingestion, or other means to the body of a patient or research subject by: (A) a practitioner or an agent of the practitioner in the presence of the practitioner; or (B) the patient or research subject at the direction and in the presence of a practitioner (emphasis added). H&S 481.002(1)*

16. In either instance, in order for 33.091(h) to apply to an injection for steroids, the injection must essentially either be given by the doctor or a member of his/her staff at the doctor’s office; or by the patient herself at the doctor’s office.

17. In this case, the Plaintiffs have provided videos and photos to the UIL showing that this athlete is injecting herself with steroids in her own home. Accordingly, these steroids are not being “administered” in accordance with 33.091(h) and therefore this “safe harbor” defense to a suspension is not applicable.

18. **No valid medical purpose.** Moreover, the term “*medical purpose*” is also a defined term under the Health and Safety Code:

*“Medical purpose” means the use of a controlled substance for relieving or curing a mental or physical **disease** or infirmity (emphasis added). H&S 481.002(27)*

19. In this case, M.B. has very publicly proclaimed that she is “transgender” and wishes to become a boy. Years ago this condition was called “gender identity disorder” (it is now called *gender dysphoria*), and in some circles was classified as a disease. Ironically, the transgender community, concerned about the stigma of having their condition labeled as a “disease”, lobbied the APA to reclassify being “transgender”. Therefore, in 2012, the American Psychiatric Association published the 5<sup>th</sup> edition of its *Diagnostic and Statistical Manual of Mental Disorders* (known as DSM-V) and “transgender” or “gender dysphoria” is no longer classified as a “disease” by the APA or any recognized medical, psychological or psychiatric organization, or the State of Texas. Therefore, the fact that M.B. seeks to describe herself as “transgender” does not in any way mean that she has any kind of “disease or infirmity” that would allow her to maintain eligibility and take steroids.

20. **Cannot Cheat and Compete.** This athlete is cheating, plain and simple, and the UIL knows it. The UIL must be ordered to not allow this athlete to compete.

**VI.  
APPLICATION FOR TEMPORARY RESTRAINING ORDER AND  
INJUNCTIVE RELIEF**

21. Plaintiffs incorporate paragraphs 1 through 20 by reference for all purposes.

22. The UIL publishes “purpose” statements, “athletic codes” and other resources that are replete with words like “fairness”, “sportsmanship”, “honesty” and “integrity”. Its actions in this matter show anything but these laudible traits. This athlete is openly and brazenly **cheating**; plain and simple. Every drug testing

authority in the world prohibits athletes from taking anabolic steroids at any time (both in competition and out of competition). There is a reason these are known as PEDs or performance-enhancing drugs. They are cheating and should be treated as such. The female athletes who will compete against M.B. in the 110 pound weight class during the month of February all have to play by a set of rules: They all need to weigh no more than the weigh limit of their class; their hair and fingernails must be within certain parameters so as not to impede or injure their opponents; and they are all girls, with female bodies and female endocrine systems.

23. As evidenced by the affidavits being provided to the Court, M.B. has injured athletes this year, not because of her superior wrestling ability, but because she essentially competes with what is commonly called “roid rage”, which is simply not found in girls’ athletics. The UIL is **endangering the health** of the girls who will compete against M.B. by requiring them to either forfeit their match (see enclosed affidavit) or compete against someone who is **cheating**. While this is obviously an issue of fairness, it is also a **safety issue**. The UIL is failing and refusing to enforce its own rules and the law and is applying positions that are **medically indefensible**.

24. Finally, it appears that the UIL is failing to simply look at the facts: A female athlete is taking **male hormones TO BECOME A BOY**, yet is still being allowed to compete against girls. Somewhere in the process of reviewing this case and looking at the “trees”, the folks at the UIL missed the “forest”; they fail to see the impropriety and outright **insanity** of allowing a girl who is taking a banned anabolic steroid (for the purposes of becoming a boy) to still compete against girls.



25. The irreparable harm shown above will continue unless the UIL is immediately restrained by way of a temporary order requiring the UIL to not allow this athlete to compete in girls wrestling and/or to suspend “her” (M.B.) immediately. The District meet, the first step toward the State tournament, is February 11 and the entire season is over on February 25, 2017.

26. Based on the foregoing, Plaintiffs would show that they have a probable right to the relief they seek upon final hearing and a temporary restraining order, temporary injunction and possible permanent injunctive relief are necessary to prevent immediate and irreparable injury to Plaintiffs.

27. Plaintiffs are submitting the following materials to the Court for considering of this matter (some of which contain the identity or photos of the minor athlete and are therefore being submitted under seal):

- Affidavits from coaches;
- Correspondence (letters and emails) to and from the UIL;
- ACOG Bulletin 484;
- APA publications on *gender dysphoria*;
- Materials from the UIL website on its purpose and constitution;
- Materials from USADA and WADA on anabolic steroids;
- Chapter 481, Health and Safety Code (excerpts);
- Chapter 33, Education Code (excerpts);
- Research materials on testosterone; and
- Photos and video of M.B.

**VII.  
CONCLUSION & PRAYER FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs request and pray that Defendant be ordered to appear, following due notice, and show cause why Defendant should not be restrained and ordered as set forth herein; that pending the hearing Defendant be temporarily enjoined from any action or course of action inconsistent with the relief sought herein; on final hearing the Defendant be permanently enjoined from any action or course of action inconsistent with the relief sought herein; and such other and further relief, both general and special, at law or in equity, to which Plaintiffs are justly entitled, and for which they will ever pray.

Respectfully submitted,

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ATTORNEY FOR PLAINTIFFS

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing instrument was faxed to counsel for the UIL on this the 7<sup>th</sup> day of February, 2017.

/s/ James R. Baudhuin  
JAMES R. BAUDHUIN