

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEE COUNTY  
CIVIL DIVISION

MICHAEL A. ROBINSON,  
227 Bellevue Way NE #313  
Bellevue, WA 98004,

Plaintiff,

v.

JOHN DOE,  
A fictitious individual,

ABC CORPORATION,  
A fictitious company,

MEARS ON-LINE AUCTIONS, LLC  
1234 Manitoba Avenue  
South Milwaukee, WI 53172, and

SMA SPORTS & MEMORABILIA ADVISORS, LLC  
936 N. 15<sup>th</sup> Street, Suite 1  
Milwaukee, WI 53233,

Defendants.

Case No.:

**COMPLAINT**

Declaratory Judgment: 30701

Other Injunctive Relief: 30704

Replevin: 31003

NOW COME the above-named Plaintiff, by Cannon & Dunphy, S.C., his attorneys, and as and for his claims for relief, alleges and shows to the Court as follows:

**PARTIES**

1. The Plaintiff, Michael A. Robinson (hereinafter "Robinson"), is an adult citizen and resident of the State of Washington, with an address of 227 Bellevue Way NE #313, Bellevue, WA 98004. Said plaintiff is the nephew of Gerald Philip Grossman (hereinafter "Phil Grossman"), who died on July 21, 1986.

2. Robinson does not know the true name of the consignee(s)/current possessor(s)/defendant(s) in this action, and pursuant to Wis. Stat. § 807.12 and the case of Lak v. Richardson-Merrell, Inc., 100 Wis. 2d 641 (1981), is filing this lawsuit by fictitious names. Robinson designates them by the fictitious name John Doe and ABC Corporation until Robinson can ascertain their true names and move for an amendment to the summons, the complaint and other pleadings.

3. The defendants, John Doe and ABC Corporation, are described, respectively, as an individual or organization who claim ownership of the 1924 Phil Grossman Babe Ruth bat and scrapbook that is the subject of this lawsuit, as described below, and consigned said bat and scrapbook to defendants Mears On-line Auctions, LLC and SMA Sports Memorabilia Advisors, LLC, in order for the bat and scrapbook to be marketed and sold.

4. At the present time, the defendant, Mears On-line Auctions, LLC (hereinafter "Mears"), is a Wisconsin domestic limited liability company, duly organized and existing under and by virtue of the laws of the State of Wisconsin, with offices located at 1234 Manitoba Avenue, South Milwaukee, WI 53172; that upon information and belief, Mears partnered with defendant SMA Sports Memorabilia Advisors, LLC to serve as consignee and market and sell the subject 1924 Phil Grossman Babe Ruth bat and scrapbook.

5. At the present time, the defendant, SMA Sports Memorabilia Advisors, LLC (hereinafter "SMA"), is a Wisconsin domestic limited liability company, duly organized and existing under and by virtue of the laws of the State of Wisconsin, with offices located at 936 N. 15<sup>th</sup> St., Suite 1, Milwaukee, WI 53233; that on information and belief, SMA partnered with

defendant Mears to serve as consignee and market and sell the subject 1924 Phil Grossman Babe Ruth bat.

### **JURISDICTION & VENUE**

6. This Court has jurisdiction over this action pursuant to Wis. Stats. §§ 801.05(6) and 801.07(1).

7. Venue in Milwaukee County is proper pursuant to Wis. Stat. § 801.50(2)(b) since, upon information and belief, the subject 1924 Phil Grossman Babe Ruth bat and scrapbook currently are located in Milwaukee County.

### **BACKGROUND**

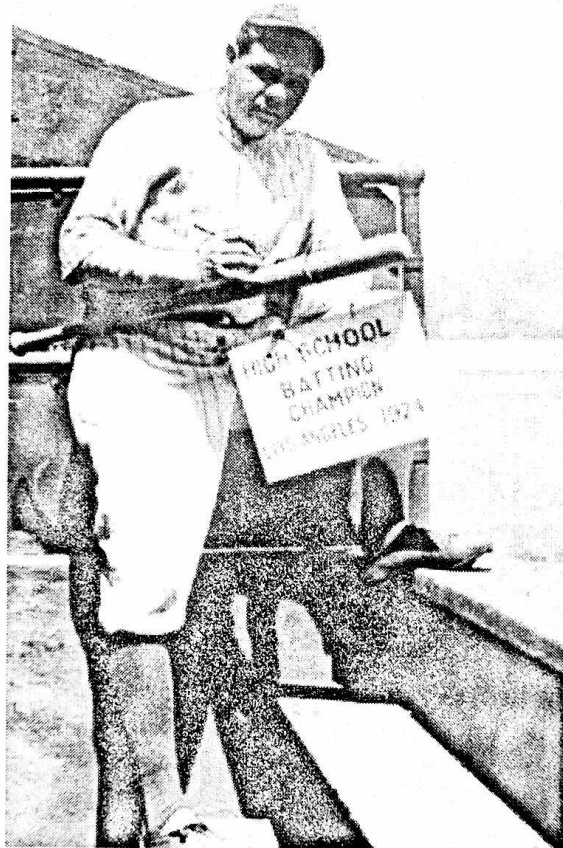
#### **The 1924 Phil Grossman Babe Ruth Bat**

8. George Herman “Babe” Ruth Jr., is considered one of the greatest sports heroes in American culture and by many as the greatest baseball player of all time. Notably, in 1936 Babe Ruth was elected into the Baseball Hall of Fame as one of the “first five” inaugural members.

9. Babe Ruth, a legend of our national pastime, hit 714 career homeruns. The bat used by Babe Ruth to hit his 239<sup>th</sup> homer has found its way to Milwaukee County and is at the center of this lawsuit.

10. During the 1924 Major League Baseball season, while Babe Ruth was a member of the New York Yankees, The Los Angeles Evening Herald newspaper offered to award an autographed Babe Ruth bat used by Ruth to hit his first homerun of the 1924 season to the player in the Los Angeles City Prep League that finished the season with the highest batting average.

11. On April 20, 1924, in the top of the eighth inning while playing against the Washington Senators at Griffith Stadium, Babe Ruth socked his first home run of the 1924 season off Senators pitcher Walter Johnson, a baseball legend in his own right. Ruth signed the bat after the game as documented in this rare photo:



See Exhibit 1. It is believed that, to date, this is the only Babe Ruth bat documented with a photograph of a uniformed Babe Ruth holding the exact bat he signed.

12. Phil Grossman, right fielder on the Jefferson High School team, finished the 1924 Los Angeles City Prep League season with the highest batting average, thereby winning the prized autographed Babe Ruth bat. The autographed bat was affixed with a custom plate awarding the bat to Phil Grossman:



See Exhibit 2.

13. Phil Grossman's family kept a scrapbook of newspapers articles chronicling the batting champ's efforts through the prep season and his winning of the 1924 Phil Grossman Babe Ruth bat. Examples from pages of the scrapbook follow:

### GROSSMAN GLE LEAD IN RACE FOR TROPHY

McKey of L. A. and Weber of  
Manual Slip as Race  
Draws Toward Close

**RUTH BAT STANDINGS**

Player	AB	R	HR
Grossman, Jefferson	19	8	3
Wason, Manual Arts	22	10	4
Agar, Franklin	17	6	2
Levy, Jefferson	15	7	2
Wicks, L.A. Academy	14	5	2
Reilly, Jefferson	13	6	2
Wick, L.A. Academy	12	5	2
Strain, Jefferson	12	5	2
Graves, Jefferson	11	4	2
Carlson, Manual Arts	10	4	2
Drake, Manual Arts	10	4	2
Boyd, L.A. Academy	10	4	2
Arnold, L.A. Academy	10	4	2

High honors in the batting average column of the city prep league automatically dropped to Grossman, Jefferson High star, when McKey, L. A., failed to connect in four trips to the plate and Charley Weber, a Manual Arts leavy hitter, hit only once in five chances.

The Babe Ruth bat, an award to be given by The Evening Herald to the boy with the highest batting average in the city high schools, is still without a winner until the Jefferson and Polytechnic boys compete Monday afternoon at Washington Field.

While on the mound for the Art Union yesterday, proved too much for the former slugger, although Lew Anderson won the game and took all chances for a city championship away from Manual. The game was a hot one from start to finish. Lew Anderson hitning in the top half of the tenth when the runner straggled. He made nothing the next 4 to 6.

These pitchers went in for a 2-0 game for the first game and took the Art Union down while their own team pitched a 1-0 and won their first game of the year.

Jefferson easily won from Polytechnic today in a contest which was never in doubt. Jiff and Perry, who pitched and tripled for the home team, while Jones pitched with the slug for Lincoln, enabling them to win in four innings of play.

### PREP STARS IN HOT RACE FOR HITTING HONORS

Poly is Defeated, 13 to 0, in  
Final Game of City  
League Season

By HARRY CULVER

Grossman, Jefferson and Jefferson pitcher with the title designated "Babe" Ruth bat offered by The Evening Herald to the boy with the highest batting average, after dominating for a hot week in the second round of yesterday's championship game that drew in two of the spectators.

Jefferson, after leading from the start through the whole game, easily won out through the Manual Arts, who finished the season with 100, while Jefferson closed with 100. Jefferson took 10 strikes in 15 trips to the plate.

With the season's all hitting these prep champions joined in with the competition to the top score that had the bat from one more strike to Manual Arts, and was completed from the close when they were given the game. They came down with 100, Jefferson made 100, with a chance to secure his own trophy when after a hot match he brought up to center round his trophy for a hitting average.

For the first time in several seasons Jefferson had their home at the league pitcher after having defeated a 13 to 0 with a hot game yesterday at Washington Field.

Jefferson's champion, who has been the star of the day, showed an average of runs in the top inning that did not show such for Manual Arts. Jefferson's series on the mound after Phillips, who pitched for the home team, had pitched the game during practice. Had the situation been as there his, during the game he would be pitched with a hitting average of 1.00 that would be a hitting average of 1.00.

Phillips pitched in the ninth and went the rest of the game in the eighth.

After Phillips' strike, had pitched the Jefferson in the ninth in the first three innings. They had pitched for the home team, but the home team, who had pitched for the home team, had pitched for the home team.

**LOOKS LIKE PHIL GROSSMAN WILL SURE COP THE BABE RUTH BAT THAT IS OFFERED BY THE EVENING HERALD TO THE CITY LEAGUE'S BEST HITTER. THE WHOLE SCHOOL HOPES YOU GET IT, OLE KID.**

**PRESENT RUTH BAT TO L. A. PREP CHAMP NEXT WEEK**

Grossman of Jefferson High Team Will Be Awarded Evening Herald Trophy

By HARRY CULVER  
 The Babe Ruth bat with which the great slugger ended his career is the one to which the Evening Herald has agreed to award the best hitter in the city next week. The bat is to be given to the player who has the highest batting average in the city next week. The Evening Herald is offering the bat to the player who has the highest batting average in the city next week. The bat is to be given to the player who has the highest batting average in the city next week.

**PLENTY OF RIVALRY**  
 The Evening Herald is offering the bat to the player who has the highest batting average in the city next week. The bat is to be given to the player who has the highest batting average in the city next week. The bat is to be given to the player who has the highest batting average in the city next week.

**HERALD PRIZES**  
 The Evening Herald is offering the bat to the player who has the highest batting average in the city next week. The bat is to be given to the player who has the highest batting average in the city next week. The bat is to be given to the player who has the highest batting average in the city next week.

**HERALD PRIZE WINNER IS NAMED FOR PREP TEAM**

Babe Ruth Bat Here Choice of Local Baseball Mentors for High School Squad

By HARRY CULVER  
 The Evening Herald is offering the bat to the player who has the highest batting average in the city next week. The bat is to be given to the player who has the highest batting average in the city next week. The bat is to be given to the player who has the highest batting average in the city next week.

**City League Champion**

George Grossman, winner of the Babe Ruth bat, is the best hitter in the city next week.



George Grossman, batting star of Jefferson High School City League Champions.

- ALL CITY TEAM**
- First Base: [Name]
  - Second Base: [Name]
  - Third Base: [Name]
  - Short Stop: [Name]
  - Left Field: [Name]
  - Center Field: [Name]
  - Right Field: [Name]
  - Pitcher: [Name]
  - Catcher: [Name]

## RUTH BAT WILL BE PRESENTED TOMORROW

With Harry Williams, president of the Coast Baseball league, making the presentation, the autographed Babe Ruth bat will be given to the winner tomorrow afternoon at Jefferson high school.

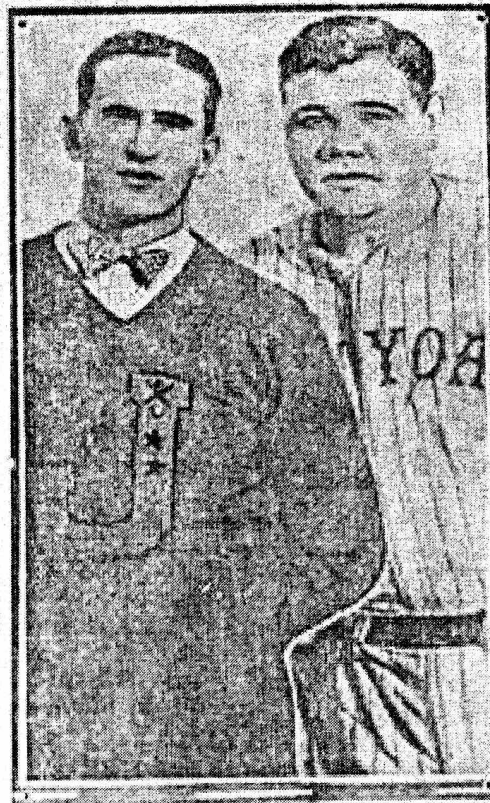
The Evening Herald trophy was this year captured by Philip Grossman, who made the highest batting average in the city high school league after battling for the lead for the entire season.

A hard hit in the last game of the season gave Grossman the edge over a large field of competitors, and to the young Jefferson hitter goes the Ruth prize. The bat which the home run king has sent The Evening Herald for the award is the one with which he poked his first circuit clout of the season, and with this christening the willow is one which anybody would be proud to own.

The school band of 75 pieces will furnish the music for the occasion, which will mark the last festivity of the school year.

During the afternoon school let-down will be awarded the boys who have just finished winning the baseball championship, along with the basketball team who performed early in the year. The whole school will be dismissed to attend the program, and the immense auditorium will be packed.

## Look! Two Champs



*Courtesy of the Herald*

The World's champ and the City League champ! This photo shows Babe Ruth of the N. Y. Yankees and Phil Grossman just after the Bambino had congratulated Jeff's best hitter on his recent visit to Los Angeles. The Evening Herald offered a bat autographed by Ruth to the player in the City League getting the highest batting average, and Phil obliged that paper by relieving them of the ash.

"Gee!" Grossman will be back next year, grinnin' for any new trophies and will make a strong bid for his third year on the All-City outfit.

Babe Ruth will also be displaying his merchandise for the Big League boys!

Here's to a big year for you, Babe and Phil!

See Exhibit 3.

### The Plaintiff Robinson Acquires the Bat

14. On multiple occasions while growing up, Robinson visited his uncle, Phil Grossman, making the trip from Bellevue, Washington to Los Angeles, California. There, Mr. Grossman would mesmerize the young Robinson with old-time stories of baseball characters that seemed larger than life and the 1924 Babe Ruth bat which carried the same mystique.



Robinson knew from an early age that he wanted to continue this connection to his family's ancestry and baseball history.

15. On July 21, 1986, Phil Grossman died. One item offered for auction as part of Mr. Grossman's estate was the 1924 Phil Grossman Babe Ruth bat with the accompanying scrapbook. See Exhibit 4. Mike Robinson, now an adult, sought to preserve his family's legacy and made an offer to purchase the bat and scrapbook from his uncle's estate.

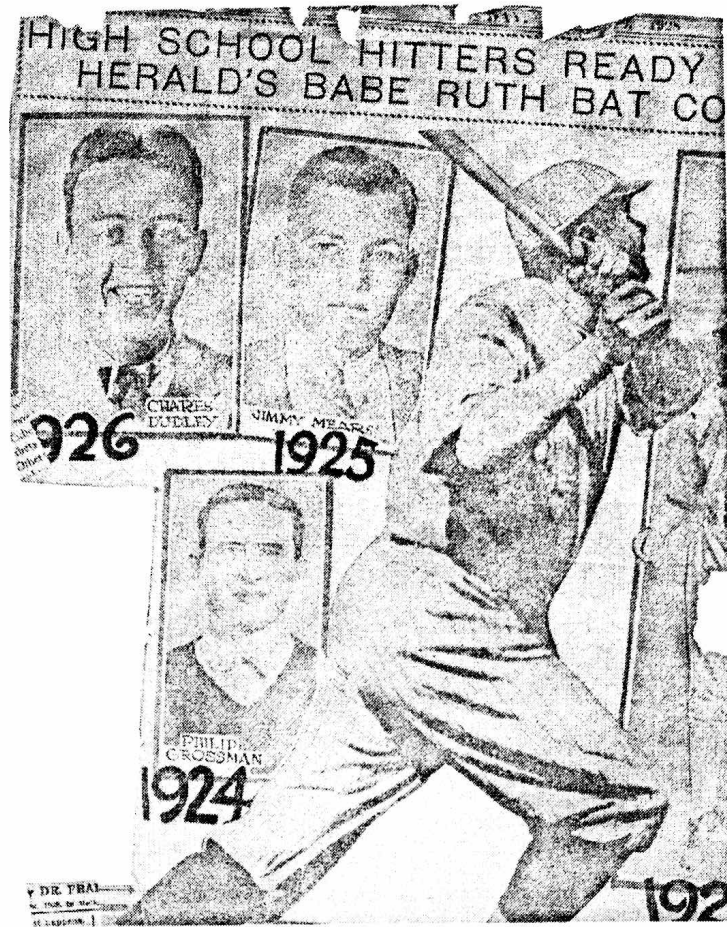
16. By letter dated November 25, 1986, Mike Robinson learned that his offer of \$3,028 was accepted as the highest bid for the 1924 Phil Grossman Babe Ruth bat and scrapbook. See Exhibit 5.

17. On December 6, 1986, Robinson sent a check for \$3,028 by Federal Express to the attorney handling Phil Grossman's estate. See Exhibit 6. Robinson later received the treasured bat and scrapbook and kept them in a safe at his home.

#### **The Bat and Scrapbook are Stolen from Plaintiff Robinson**

18. Approximately 30 years ago, while still living in his hometown of Bellevue, Washington, Robinson entrusted the bat and scrapbook to a man he met through a mutual friend with the understanding that the man had contacts in the Los Angeles and would attempt to find a buyer for the bat and scrapbook. Robinson kept (and continues to possess) the following page from the scrapbook prior to entrusting the bat and scrapbook to the man:





See Exhibit 7.

19. After not hearing from the man for about a month, Robinson unsuccessfully attempted to contact the man by telephone. Realizing the man stole the bat, Robinson went to the Bellevue, Washington Police Department and reported the bat stolen. The bat was never recovered.

#### **Plaintiff Robinson Discovers the Bat**

20. In the 1990s, as the internet as we know it began to take shape, Robinson searched on eBay for the 1924 Phil Grossman Babe Ruth bat and scrapbook to no avail. Robinson also set up auto-searches via Google alerts for the 1924 Phil Grossman Babe Ruth

bat and scrapbook. Thereafter, Robinson received and reviewed thousands of email alerts over many years, also to no avail.

21. Then, on March 9, 2017 through March 11, 2017, Robinson received a series of notifications from Google Alert for the search terms “Phil Grossman Babe Ruth Bat,” “Babe Ruth Bat,” and “Babe Ruth Bat Phil Grossman” See Exhibit 8. The alerts directed Robinson to various websites reporting that, among other things: “1924 Babe Ruth Autographed First Home Run Bat – Could Become Most Expensive Piece of Memorabilia Ever Sold.” The March 11, 2017 Google Alert directed Robinson to the following website: <http://www.1924baberuthbat.com/history-of-the-bat.html>. According to the website, defendants Mears and SMA partnered to market and sell the historic 1924 Phil Grossman Babe Ruth bat and scrapbook with claims that:

[The 1924 Babe Ruth bat] is the most historically significant Ruth bat to enter the hobby in nearly 15 years and ranks among the very top for importance and value. The fact the bat was used to hit a home run, autographed by the Babe, and includes iron clad provenance and a rare photo of Ruth signing the actual bat; this bat is reserved for the collector that wants museum class artifact.

See Exhibit 9.

22. Robinson took immediate action to stop the sale of the bat. One of the lawyers initially hired by Robinson sent a letter to Mears on March 13, 2017 advising Mears that the bat was stolen and demanding that the bat not be sold. See Exhibit 10. In response, Mears and/or SMA through their attorney promised to retain possession of the 1924 Phil Grossman Babe Ruth bat and scrapbook and promised to take no action to dispossess themselves of the bat until further order of a court of competent jurisdiction. However, the attorney for Mears

and/or SMA will not disclose the name of the consignor nor will the attorney disclose the actual location of the 1924 Phil Grossman Babe Ruth bat and scrapbook.

### **FIRST CLAIM FOR RELIEF: DECLARATORY JUDGMENT**

23. The plaintiff realleges and incorporates by reference the above paragraphs to the extent not inconsistent with the allegations made here.

24. Robinson is the full and absolute owner of the 1924 Babe Ruth bat and scrapbook and entitled to their possession.

25. A real and justiciable controversy exists between Robinson and Defendants as to the ownership and possession of the 1924 Babe Ruth bat and scrap book.

26. Robinson is entitled to a declaration of his rights with respect to the 1924 Phil Grossman Babe Ruth Bat and scrapbook, and specifically a declaration that Robinson is the full and absolute owner of the 1924 Phil Grossman Babe Ruth Bat and scrapbook and entitled to their possession.

### **SECOND CLAIM FOR RELIEF – REPLEVIN**

27. The plaintiff realleges and incorporates by reference the above paragraphs to the extent not inconsistent with the allegations made here.

28. Robinson has brought this action, in part, to recover possession of the 1924 Phil Grossman Babe Ruth Bat and scrapbook.

29. Robinson is the full and absolute owner of the 1924 Phil Grossman Babe Ruth bat and scrapbook.

30. Upon information and belief, the 1924 Babe Ruth bat and scrapbook is wrongfully detained by Mears and/or SMA as the consignee(s) of the 1924 Babe Ruth Bat and scrapbook from the anonymous consignor, John Doe and/or ABC Corporation.

31. Given that 1924 Babe Ruth Bat and scrapbook is, upon information and belief, in excellent condition, the actual value of the 1924 Babe Ruth bat and scrapbook likely exceeds millions of dollars.

32. By representation of Mears and SMA's attorney, the 1924 Phil Grossman Babe Ruth bat and scrapbook are in a secure location within Milwaukee County, however, the attorney for Mears and/or SMA will not disclose the name of the consignor nor will the attorney disclose the actual location of the 1924 Phil Grossman Babe Ruth bat and scrapbook.

33. Robinson has made demand on the consignor through the consignees, Mears and SMA, for the return of the 1924 Phil Grossman Babe Ruth bat and scrapbook.

34. The 1924 Phil Grossman Babe Ruth bat and scrapbook have not been taken for a tax assessment or fined or seized under an execution or attachment against the property of the Plaintiff or if so seized, this is exempt from such seizure.

35. Robinson is entitled to an order of replevin.

**THIRD CLAIM FOR RELIEF: INJUNCTIVE RELIEF**

36. Robinson realleges and incorporates by reference the above paragraphs to the extent not inconsistent with the allegations made here.

37. The defendants' residences are stated and shown, if known.

38. That it appears that Milwaukee County is within the judicial circuit in which is located the county that is the proper place of trial of the action.

39. Robinson is facing imminent, irreparable injury by not having possession of the recently discovered 1924 Phil Grossman Babe Ruth bat and scrapbook, and by the bat and scrapbook being listed for auction and/or sale by an anonymous seller. Without a restraining order/injunction, the defendants Mears On-Line Auction, LLC and/or SMA Sports Memorabilia Advisors, LLC may either sell the subject 1924 Phil Grossman Babe Ruth bat and scrapbook and/or return it to the as of yet undisclosed seller, in which event the plaintiff Robinson will continue to be dispossessed of his lawful property and lose his ability to obtain a court declaration of his ownership rights over the subject property.

40. Robinson's pleading shows that he is entitled to a judgment or order declaring that he is the full and absolute owner of the 1924 Phil Grossman Babe Ruth bat and scrapbook and entitled to their possession and that it is necessary to maintain the status quo between the parties; not to decide the whole controversy in advance, but to prevent the final judgment or order from being rendered ineffectual.

41. Robinson requests that this Court order that the defendants be temporarily and permanently restrained and/or enjoined from taking any action to sell and/or dispossess themselves of the 1924 Phil Grossman Babe Ruth bat and scrapbook.

42. There is no adequate remedy at law, and the equities favor issuance of immediate and permanent injunctive relief to prevent irreparable harm to Robinson including jeopardizing his ability to legally possess the recently discovered 1924 Phil Grossman Babe Ruth bat and scrapbook.

**WHEREFORE**, the plaintiff respectfully prays for the following relief:

A. An immediate *ex parte* temporary injunction and/or restraining order restraining and/or enjoining John Doe and/or ABC Corporation and/or Mears On-Line Auctions, LLC and/or SMA Sports & Memorabilia Advisors, LCC from selling and/or dispossessing themselves of the 1924 Phil Grossman Babe Ruth bat and scrapbook;

B. A permanent injunction enjoining John Doe and/or ABC Corporation and/or Mears On-Line Auctions, LLC and/or SMA Sports & Memorabilia Advisors, LCC from selling and/or dispossessing themselves of the 1924 Phil Grossman Babe Ruth bat and scrapbook;

C. An order that the Defendants immediately return the 1924 Phil Grossman Babe Ruth bat and scrapbook to Plaintiff or to a court-ordered secure location or post a bond executed by sufficient sureties to the effect that the Defendants shall be bound to the sum of the bond for the delivery of the property thereof to the Plaintiff, if the delivery be adjudged, and for the payment to the Plaintiff of such sum as may be recovered against the Defendants;

D. A declaration that Plaintiff is the full and absolute owner of the 1924 Phil Grossman Babe Ruth bat and scrapbook;

G. For costs and disbursements in pursuit of this action;

H. For such other and further relief as the Court may deem necessary, proper and just under all of the circumstances.

**PLEASE TAKE NOTICE THAT THE PLAINTIFFS DEMAND A TRIAL IN  
THE ABOVE-ENTITLED ACTION.**

Dated at Brookfield, Wisconsin this 10<sup>th</sup> day of May, 2017.

**CANNON & DUNPHY, S.C.**  
Attorneys for Plaintiff

By: /s/ Allan M. Foeckler  
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Brett A. Eckstein  
State Bar No. 1036964

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