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Appellate Division Docket Nos. 2019-05390, -05458, -05459
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Court of Appeals of the State of New York

TCR SPORTS BROADCASTING HOLDING, LLP,
Appellant,

– against –

WN PARTNER, LLC, NINE SPORTS HOLDING, LLC, and
WASHINGTON NATIONALS BASEBALL CLUB, LLC,
Respondents,

– and –

THE COMMISSIONER OF MAJOR LEAGUE BASEBALL, and
THE OFFICE OF THE COMMISSIONER OF BASEBALL,
Respondents,

– and –

THE BALTIMORE ORIOLES BASEBALL CLUB and BALTIMORE
ORIOLES LIMITED PARTNERSHIP, in its capacity as managing
partner of TCR Sports Broadcasting Holding, LLP,
Appellants.

AMICUS BRIEF OF THE MAYOR AND CITY COUNCIL OF BALTIMORE

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Corporate Disclosure Statement

Pursuant to Rule 500.1(f) of the Rules of Practice of the Court of Appeals of the State of New York, The Mayor and City Council of Baltimore states that it is a municipal corporation, and does not have any subsidiaries, parents, or affiliates.

TABLE OF CONTENTS

	Page
Statement of Identity and Interests of Amicus	i
I. Introduction.....	1
II. City’s Investment in the Orioles	2
III. Impact of the Orioles on the City of Baltimore	4
a. Direct Economic Impact from Orioles	4
b. Indirect Economic Impact from Orioles	5
c. Community Impact.....	9
d. Team’s Intangible Impact.....	12
IV. Conclusion	16

Statement of Identity and Interests of Amicus

The Mayor and City Council of Baltimore (the “City”) is the municipal corporation that governs Baltimore City. The City Solicitor is the legal representative of the City and manages the City’s law department. Pursuant to Rule 500.23(a)(4)(i) of this Court’s Rules of Practice, the City submits this brief to be “of assistance to the Court.” 22 N.Y.C.R.R. § 500.23(a)(4)(i). The City is deeply interested in and affected by the outcome of this appeal because this Court’s decision is likely to have a direct impact on the long-term viability of the Baltimore Orioles to remain in Baltimore City. To that end, the City submits this brief to convey to the Court the economic and intangible benefits the City derives from the Orioles, the investments that the City has made in the team, and the overall impact an adverse ruling would have on the City.

I. Introduction

The Baltimore Orioles are more a part of the City of Baltimore's identity than perhaps any other single civic institution. For nearly 75 years, the Orioles have provided the most durable unifying force for a City that—despite its many strengths—confronts historic racial and socio-economic strife on a near constant basis. On any given day in Baltimore, there are far more forces that pull at the City's fabric than those that help hold it together. And yet, amidst that back drop, the City's baseball team, with its 81 home games each year in one of the nation's most storied architectural gems, stands out, buoying the City's morale and providing a welcome reprieve from its challenges. In addition to binding an otherwise disparate populace together, the team offers an important counternarrative to visitors and tourists whose only familiarity with Baltimore City derives from the scenes of poverty and violence depicted in *The Wire*. For every person whose exposure to Baltimore is that all too familiar caricature, there are a number who know Baltimore for the familiar Oriole Bird logo, and who plan trips to visit the City just to catch a game at the famous Oriole Park at Camden Yards.

It is for those reasons that the City submits this *amicus* brief to attempt to illustrate the team's significance to Baltimore for the Court's awareness. The team's long-term viability, and with it, a substantial component of Baltimore's character and identity, relies on a fair and unbiased enforcement of the protections afforded to

the Orioles by the agreement put in place when Major League Baseball moved the Montreal Expos to Washington, D.C. in 2005. Subjecting the Orioles to an unfair arbitration process would not only be detrimental to the team, it would be unjust to the City and its citizens, who have made significant investments in the team and derive substantial monetary and civic benefits from the team's presence.

II. City's Investment in the Orioles

The City invests considerably in the Orioles. This investment has always been made with the belief that the Orioles would remain in Baltimore. To jeopardize the Orioles' ability to remain in Baltimore would not only strike a blow to the City's vitality moving forward, it would undermine that investment. It would also undoubtedly send a negative signal to other municipalities that have made support for a professional sports franchise an important component of their communal welfare.

The City has spent millions of dollars to support the Orioles and subsidize their ability to remain in Baltimore. Not only did this money constitute the City's ongoing commitment to the Orioles' presence, but it was also a down payment on the team's future in Baltimore. To jeopardize that future would cruelly extinguish that expectation.

No investment into the Orioles is more obvious than the millions of dollars the City has contributed to the construction, renovation, and maintenance of Oriole

Park at Camden Yards. The State of Maryland financed the original construction and major upgrades through the Maryland Stadium Authority (“MSA”). Most recently, the Maryland legislature approved \$600 million in upgrades to Camden yards along with \$600 million to M&T Bank Stadium, the most ever for a baseball stadium after Yankee Stadium. *Baltimore Orioles and Ravens split US \$1.2bn in public funding for venue upgrades*, Sports Pro Media (Apr. 13, 2022).¹ However, the City has also invested beyond the support that the City’s taxpayers contribute to the State’s investments and the City’s political support needed to advance those packages. To date, the City itself has invested approximately \$30 million just for debt service on the stadium construction.

In addition to direct payments necessary to make Oriole Park financially viable, there are several other ways that the City diverts limited resources to support the Orioles. For example, the Baltimore City Police Department provides a full complement of officers who work at all home games. Similarly, the City’s Fire Department provides emergency medical personnel for the team’s home games. Taken together, the City’s actions make clear that providing the team the support it needs to thrive is a priority for the City.

¹ Online at <https://www.sportspromedia.com/news/baltimore-orioles-ravens-mlb-nfl-camden-yards-sports-complex-maryland-funding/>.

III. Impact of the Orioles on the City of Baltimore

The City invests in the Orioles because the team has a nearly incalculable impact on the health and vitality of Baltimore. This investment pays dividends both in the form of direct economic activity as well as the critically important intangible impact on the City's psyche. There are several studies that provide some insight into the direct economic impact that the team has had on the City. And while it is harder to measure the team's impact on the City's morale, there are myriad examples that emphasize the unmistakable extent to which the team acts as a unifying force.

a. Direct Economic Impact from Orioles

Since 1992, the Orioles have attracted approximately 70 million visitors to Baltimore's downtown area, according to a report by the Maryland Stadium Authority. Those visitors generated an estimated \$9.2 billion from their own spending. To put those numbers in perspective, the City's population—which has declined over the past half-century—now stands at just under 600,000. With a downtown area struggling for tourism and commerce, the impact of a force that drives an average of 2 million people to the City's downtown each year is simply impossible to overstate. Nor can the impact of the estimated \$9.2 billion in spending over the same time period be discounted, considering the City's budget alone stands at roughly \$4 billion. Next, the Orioles employ approximately 4,000 people each year with an estimated \$4.8 billion in employee earnings since 1992. Again, set

against the backdrop of the challenges the City confronts each year, these numbers are nothing short of staggering. The impact of their absence would be difficult to contemplate.

b. Indirect Economic Impact from Orioles

The number of visitors only begins to capture the Orioles' impact on the City, because it does not take into account the secondary impact of all the activity driven by the team each season. Two noteworthy reviews of the Orioles' effect on Baltimore were conducted in 1992, the year Oriole Park at Camden Yards opened to the public, and in 2007. The first study, performed by the Baltimore City Department of Urban Planning, attempted to answer a question that at the time was top of mind for many baseball and non-baseball thinkers: would the existence of Camden Yards in downtown Baltimore provide an economic jolt to the businesses surrounding the ballpark? The study focused on the effect the Orioles' new stadium had on the City's tourism industry.² The study reported that of the 3,567,819 fans

² Baltimore City Dep't Of Urban Planning, *The Economic Impact Of Oriole Park At Camden Yards* (1992) (online at http://www.redevelopmenteconomics.com/yahoo_site_admin/assets/docs/camden_yards_ballpark_impact.21573050.pdf). The study was conducted in the form of a survey of roughly 1,000 fans who attended Camden Yards at some point in 1992. The Department of Urban Planning also interviewed managers of City restaurants, bars, and hotels in order to gauge if the survey results aligned with the business owners' view of how Camden Yards had affected their bottom lines.

who attended a game at Camden Yards in 1992, 1.6 million were out-of-town fans.³ Of these 1.6 million non-Baltimorean fans, the study noted that nearly 500,000 were new tourists to downtown Baltimore. If anyone should doubt the number of visitors to Camden Yards, they need only attend an Orioles game versus the Yankees. These tourists do not restrict themselves to baseball—the study found that a significant portion of the out-of-town fans rented overnight hotel rooms in downtown Baltimore, and many of these fans patronized downtown restaurants, perused the Baltimore National Aquarium, reveled in Babe Ruth’s childhood home, and browsed retail shops before and after Orioles games. Overall, the study determined that the out-of-town fans spent \$46 million in the Baltimore area in the days surrounding Orioles home games, representing a 12 percent increase in the total annual volume of Downtown tourism. The study emphasized “this should be regarded as new money to the local economy, i.e., it is a source of real economic growth.”

The shopping, eating, and drinking was not done solely by out-of-towners. The study found that 35 percent of *all* game attendees patronized downtown restaurants, bars, and retail establishments before or after games. Actual 1992 out-

³ *Id.* The report defines an “out-of-town” fan as someone who does not live in the Baltimore metropolitan area. Affection for either the Orioles or the away-team was not taken into consideration when measuring who was “out-of-town” and who was not.

of-stadium expenditures not including overnight spending⁴ amounted to \$52.6 million. That figure only represents downtown spending—the study noted that suburban areas immediately surrounding the Baltimore metropolitan area also benefitted from almost \$15 million in fan spending in 1992, primarily from visitors staying in hotels and motels outside the City limits. Perhaps these figures were inflated by the novelty of a brand-new ballpark, but the Orioles’ attendance figures continued to rank in the top 5 of American League teams for over ten years,⁵ until figures began to decline after 2005 with the arrival of the Nationals in Washington.

The 1992 study pinpointed the effect of the Orioles on local businesses. A separate 2007 report, conducted by Towson University’s Center of Applied Business and Economic Research on behalf of the Maryland Stadium Authority, analyzed the effect the Orioles had on the Baltimore job market.⁶ The Maryland Stadium Authority wrote in its 2007 annual report that “according to [Towson University] . . . in FY 2006 the Baltimore Orioles generated in excess of \$166.9 million in sales and wages with a fiscal impact on state and local governments totaling \$17.95 million in tax revenues.” The report shows that Camden Yards itself supported 2,452 jobs in

⁴ *Id.* Overnight spending was defined as money spent by people staying in overnight hotel rooms.

⁵ Online at <https://www.baseball-reference.com/teams/BAL/attend.shtml>.

⁶ Maryland Stadium Authority, Annual Report (2007) (online at <https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/005000/005102/unrestricted/20080002e.pdf>).

2006, which represented \$72.6 million in personal income. The report also explained that the economic impact of the Orioles was probably even more valuable than the numbers would suggest, as baseball is played primarily on weeknights, when local merchants would otherwise be less busy.⁷

The Orioles and Camden Yards have also created beneficial opportunities for Baltimore beyond the world of baseball and its various pre-and-post game festivities. Because of the existence of the Orioles in Baltimore, the City has been able to participate in events that would otherwise be impossible. In 2019, artist Billy Joel performed at Camden Yards, marking the stadium's first foray into concert hosting. The concert was a success, drawing over 39,000 attendees and generating over \$6 million in revenue, 8 percent of which was collected by the Stadium Authority and diverted to the City. In June of 2022, rock legend Paul McCartney performed at Camden Yards, as well, drawing a crowd of over 40,000. Save for the neighboring football complex M&T Bank Stadium, nowhere else in Baltimore could 40,000 people attend a concert; the Orioles afford the City the opportunity to compete in the market for musical acts of that magnitude.

The Baltimore Running Festival is yet another community event that looks to the Orioles as one of its cornerstones. Both the Baltimore Marathon and the

⁷ *Id.*

Baltimore Running Festival's 5k event begin at Oriole Park at Camden Yards, where thousands of runners gather every year. The Running Festival raises roughly \$1 million for local charities every year, and its popularity and splendor are due in no small part to the fact that runners get to begin their journey flanked by Camden Yards' iconic right field warehouse.

c. Community Impact

The Orioles and the team's players are pillars of the Baltimore community and have committed to community building in the City. The Orioles have donated more than \$10 million to local causes since the team's 1993 purchase by its current ownership. *See* Orioles Charitable Fund.⁸ This support includes food drives for the Maryland Food Bank, support to local schools, and youth outreach. Such services have been pivotal to Baltimore's success. The team's Oriole Advocates Charitable Foundation has distributed over 80 tons of equipment to local schools, orphanages, community groups and hospitals in the Baltimore area. The team's Reviving Baseball in Inner Cities ("RBI") program is a youth baseball and softball league designed to promote interest in baseball in Baltimore City while boosting self-esteem and encouraging children to stay in school. In 2023, the program will impact 600 City youth. The Field Revitalization Program aims to improve the field

⁸ Online at <https://www.mlb.com/orioles/community/charitable-fund>.

conditions of baseball and softball fields in Baltimore City and make them safe, playable, and inviting places for young athletes. The Orioles partnered with a healthcare provider to support a three-year initiative supporting the Food Project, a Baltimore organization that brings cooking, farming, restaurant skills, job opportunities, sustainable food sources, mentorship and hope to young people in Southwest Baltimore.

Orioles players have been equally committed to the greater Baltimore community. The most recognizable of these charitable commitments is the Cal Ripken, Sr. Foundation, which aims to “strengthen America’s most underserved and distressed communities by supporting and advocating for children, building Youth Development Parks, partnering with law enforcement and youth service agencies, and addressing community needs through its national program initiatives.” Cal Ripken, Sr. Foundation, *Living Our Mission*.⁹ The foundation is named after the Cal Ripken, Sr., a longtime coach and manager of the Orioles and father of former Oriole and Major League Baseball Hall of Famer Cal Ripken, Jr., who himself played for the Orioles for two decades, from 1981 to 2001 and has been a fixture in the Baltimore community. Recently, the Cal Ripken, Sr. Foundation opened youth development parks in South Baltimore’s Cherry Hill neighborhood and Hyattsville,

⁹ Online at <https://www.ripkenfoundation.org/about-us/mission>.

Maryland, the sixteenth and seventeenth parks opened in Maryland under the foundation's guidance.¹⁰ Other players with shorter tenures in Baltimore have been similarly committed to investing in the Baltimore community.

But there are plenty of other examples of community initiatives that the Orioles lead. The Orioles support the City during crises. Indeed, during the COVID-19 emergency, the Orioles *chose* to pay their employees when no games were attended or played, much of the City was closed, and the Major League Baseball season was indefinitely postponed.¹¹ Such action not only helped minimize the risk to Orioles employees, but acted as a symbol to the public of actions necessary to protect the public's health. The Orioles contributed \$1 million to a \$30 million commitment from MLB to support employees affected by the pandemic. Baltimore Sun, *Orioles, Other MLB Teams to Donate \$1 Million Each in Support of Ballpark Employees During Coronavirus Delay*.¹² Further, the Orioles immediately closed its offices to reduce the spread of the virus. The Orioles pandemic support also

¹⁰ Online at <https://www.cbsnews.com/baltimore/news/watch-live-cal-ripken-sr-foundation-cuts-ribbon-on-bge-park-in-south-baltimore/https://www.wmar2news.com/news/local-news/the-cal-ripken-sr-foundation-adds-another-park-in-maryland-to-help-serve-kids>.

¹¹ Online at <https://baltimorefishbowl.com/stories/orioles-to-play-employees-through-may-10-councilmembers-seek-support-for-contracted-concession-workers/>.

¹² Online at <https://www.baltimoresun.com/coronavirus/bs-sp-orioles-pay-ballpark-employees-20200317-diifdwv36namhlgmqjqrzwlgy-story.html>.

included sponsoring a blood drive and donating food to local hospitals and the local community. MLB.com, *Orioles Giving Back During Coronavirus Pandemic*.¹³

d. Team's Intangible Impact

The intangible impact the Orioles have on the City and the American baseball consciousness at large is less quantifiable, but no less important to Baltimore. Most sports franchises have a deep connection with their city's inhabitants. But the Orioles' relationship with Baltimore, and the team's impact on the City's cultural reputation as a whole, is perhaps unparalleled in MLB. The Orioles unify Baltimore City in a way no other institution is capable. When the Orioles are successful, there is an increased optimism and enthusiasm within the City, noticeable to anyone walking the Baltimore streets. *See Washington Post, Baltimore finds reasons to believe in Orioles' surprising season.*¹⁴ Regardless of a resident's location in Baltimore, no topic is more prevalent across the City than the team, from the water coolers at offices across Baltimore to the downtown streets its residents and visitors frequent. Undoubtedly, a successful Orioles team generates a feeling of a more successful Baltimore.

¹³ Online at <https://www.mlb.com/news/orioles-pandemic-charity-roundup>.

¹⁴ Online at <https://www.washingtonpost.com/dc-md-va/2022/08/30/baltimore-orioles-fans-hope/>.

The Orioles also serve as a hallmark of Baltimore outside of the City, giving Baltimoreans something to be proud of. Beyond the team's on field performance, Camden Yards is a draw for baseball fans from around the world. The stadium has consistently been ranked among the best ballparks in major league baseball, and continues to attract visitors from across the United States and beyond. *See CBS News, Oriole Park at Camden Yards Ranked No. 1 MLB Park*¹⁵; *WBALTV, Survey: Camden Yards among best ballparks in MLB.*¹⁶ Moreover, the Orioles nearly seventy-five-year history in the City has made the team synonymous with Baltimore. Of Baltimore City's many attractions, the Oriole Park at Camden Yards remain one of its most recognizable and frequented.

The Orioles have taken to calling Camden Yards "the ballpark that forever changed baseball," but this is more than just a self-appointed honorific. MLB's own former commissioner, Bud Selig, declared that "when you think back, Camden Yards really started this whole ballpark expansion, and I believe that's one of the primary reasons for baseball attendance being at the historic high that it is today."¹⁷ That significance is reflected in the many teams that have sought to replicate Camden

¹⁵ Online at <https://www.cbsnews.com/baltimore/news/oriole-park-at-camden-yards-ranked-no-1-mlb-ballpark/>.

¹⁶ Online at <https://www.wbalTV.com/article/seatgeek-survey-camden-yards/28036494#>.

¹⁷ Online at <https://www.baltimoresun.com/sports/orioles/bal-mlb-commissioner-bud-selig-calls-baltimore-a-very-very-viable-candidate-for-the-2016-allstar-game-20140530-story.html>.

Yards' architectural success. Twenty-two of the 30 current MLB teams have built parks in the "retro-classic" or "retro-modern" mold that Camden Yards established. But Camden Yards' other significance is far more relevant to this brief than its design. Baseball scholars and historians alike hail Camden Yards as setting off a sea change in the way sports stadiums interact with the cities they call home.

Specifically, enthusiasts credit Camden Yards with instilling the idea that baseball, and sport in general, can be used to add life to a city, rather than to simply attract a city's fans to the outskirts of a city for three hours a night. Author Paul Goldberger argues in his book "Ballpark: Baseball in the American City" that "beginning in 1992 with Oriole Park at Camden Yards in Baltimore, new ballparks in cities across the country brought baseball back to its downtown origins, often, as at Camden Yards, quite literally integrated into older urban neighborhoods." Goldberger refers to these types of stadiums as the "third generation" of ballparks and says that "most of them were designed in the hope of weaving together an urban fabric that had been broken, aspiring to use baseball to heal the city rather than to run away from it." "Today," Goldberger says, "more than a quarter century after Camden Yards opened to great acclaim, it still represents our most encouraging model."

This praise has extended from scholars to fans, as well. Fans consistently rate Camden Yards as one of the best places to take in a baseball game. A recent fan

survey in the sports publication The Athletic ranked Camden Yards as the 5th best baseball stadium.¹⁸ Software company ReviewTrackers analyzed 130,000 baseball stadium reviews from various websites and determined that Camden Yards is in fact the most widely praised ballpark in the country.¹⁹

Camden Yards aside, the Orioles have had an outsized impact on Baltimore for nearly 70 years that simply cannot be calculated with raw numbers. Sportswriter Gordon Beard emphasized this point at a gala honoring Hall of Fame third baseman Brooks Robinson when he retired from MLB. Beard remarked that, in New York, longtime Yankee Reggie Jackson had a candy bar named after him. He then added, “around [Baltimore], nobody’s named a candy bar after Brooks Robinson; we name our children after him.” While this may sound like folklore, The Athletic’s Dan Connolly reported that “Robinson has met thousands of people who either are named Brooks or have named their children Brooks.”²⁰

The Orioles have attracted dignitaries to Baltimore. When Pope John Paul II visited Baltimore in 1995, he conducted mass to a crowd of thousands at Camden Yards. When the Orioles played their first home game at Camden Yards in 1992,

¹⁸ Online at <https://theathletic.com/1910313/2020/07/06/mlb-stadium-fan-survey-results-how-our-readers-ranked-baseballs-best-parks/>.

¹⁹ ReviewTrackers noted that fans specifically praised the quality of the facilities, the fan atmosphere, and the family-friendliness of the park.

²⁰ Online at <https://theathletic.com/2834115/2021/09/19/everyone-loves-brooks-how-brooks-robinsons-kindness-impacted-new-oriole-brooks-kriske/>.


President George H.W. Bush was there to throw out the ceremonial first pitch. When Cal Ripken, Jr. broke MLB's consecutive games played record in 1995, President Bill Clinton was in attendance to shake Ripken's hand. Ripken's streak profoundly impacted Baltimore. Ripken noted "the cool part [of the streak] was that, in the process that principle [resonated] with the public to the point where everyone shared *their* streaks with me—like those who never missed a day at the assembly plant, or who'd had perfect attendance in high school." Time and time again, the Orioles prove that they are able to transcend the confines of their nine-inning sport and improve the City of Baltimore and its citizens.

IV. Conclusion

The Orioles have become an irreplaceable part of the character and identity of Baltimore. This includes the team's direct economic impact on the City's financial well-being, and the more indirect psychological impact the team has on the City's residents. That is why keeping a healthy team in Baltimore is essential to the future welfare of the City. At the very least, the City implores this Court to ensure that the Orioles are guaranteed a fair arbitration process in the adjudication of the core agreements upon which the Orioles' long-term viability in the City ultimately depends. To jeopardize the bond between the Orioles and Baltimore through an unfair or biased process would be nothing short of devastating to the City.

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New York, New York

Respectfully submitted,

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**NEW YORK STATE COURT OF APPEALS
CERTIFICATE OF COMPLIANCE**

I hereby certify pursuant to 22 NYCRR PART 500.1(j) that the foregoing brief was prepared on a computer using Microsoft Word.

Type. A proportionally spaced typeface was used, as follows:

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Dated: December 22, 2022

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

ss.:

**AFFIDAVIT OF SERVICE
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I, Tyrone Heath, 2179 Washington Avenue, Apt. 19, Bronx, New York 10457, being duly sworn, depose and say that deponent is not a party to the action, is over 18 years of age and resides at the address shown above or at

On December 22, 2022

deponent served the within: **AMICUS BRIEF OF THE MAYOR AND CITY
COUNCIL OF BALTIMORE**

upon:

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the address(es) designated by said attorney(s) for that purpose by depositing **3** true copy(ies) of same, enclosed in a properly addressed wrapper in an Overnight Next Day Air Federal Express Official Depository, under the exclusive custody and care of Federal Express, within the State of New York.

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