

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

**In re: NATIONAL HOCKEY LEAGUE  
PLAYERS' CONCUSSION INJURY  
LITIGATION**

**No. 0:14-md-02551 (SRN/JSM)**

**PLAINTIFFS' FIRST REQUESTS  
FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT  
NATIONAL HOCKEY LEAGUE**

This Document Relates to:

ALL ACTIONS.

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiffs (defined below) request that Defendant National Hockey League (defined below) respond to the following requests for the production of documents (each, a "Request," collectively, the "Requests") within thirty (30) days of service.

**Definitions**

1. "Plaintiffs" shall mean the Named Plaintiffs in the Master Complaint.
2. The term "Concerning" or "Relating to" or "Related to" means referring to, regarding, describing, evidencing, constituting, reflecting, discussing, memorializing, summarizing, recording or providing evidence of a subject matter.
3. The terms "Document" or "Documents" means anything that may be considered to be a document or tangible thing within the contemplation of Rules 33 and 34 of the Federal Rules of Civil Procedure and Federal Rule of Evidence 1001 and includes, without limitation, any typewritten, handwritten, graphic, photographic, printed or otherwise recorded matter or recording of symbols in tangible form, however produced

or reproduced, of every kind and regardless of where located, which is in Your possession, custody, or control; or in the possession, custody or control of any servant or agent of You or of Your attorneys. The terms include the following: electronically recorded information such as electronic mail (“email”), html files, databases, data processing cards or tapes, computerized data, computer diskettes, or information otherwise contained on a computer’s hard drive, disks or backup tapes; video tapes, DVD’s, video recordings, audio tapes, view-graphs, or any information maintained on digital, electronic, magnetic or other media; and any other summary, schedule, memorandum, note, statement, letter, telegram, interoffice communication, report, diary, worksheet, list, graph, chart, or index, tape record, partial or complete report of telephone or oral conversation, transcript or minutes, compilation, tabulation, study, analysis, or other such writing or recording. The terms “Document” and “Documents” include any originals, all file copies, all other copies, no matter how prepared, and all drafts prepared in connection with such Documents, whether or not used, as well as the file in which the Documents are maintained. A draft or non-identical copy of a Document, including a copy or duplicate of a Document that has any nonconforming notes, marginal annotations or other markings, and any preliminary version, draft or revision of the foregoing, is a separate Document within the meaning of these terms.

4. Without limitation of the word "control" as used in the preceding paragraph, a document shall be deemed to be in Your control if You have the right to secure the Document or a copy therefrom from another person or public or private entity having possession or custody thereof.

5. The term “Defendant” or “NHL” means the National Hockey League. These terms include, without limitations, any offices and locations of the National Hockey League as well as any of the NHL’s divisions, affiliates, parents, subsidiaries, successors, predecessors, present or former partners, officers, directors, employees, agents, attorneys or representatives, and all other Persons or entities acting, purporting to act or authorized to act on its behalf, including but not limited to NHL Properties, NHL Enterprises, and NHL Network, and any and all other individuals or entities that possess documents the NHL has a legal right to obtain.

6. “You” or “Your” means the Defendant, NHL, and/or any managers, directors, administrators, officers, executives, agents, contractors, fiduciaries, employees or other representatives of Defendant.

7. “Master Complaint” shall mean Plaintiffs’ Master Administrative Long-Form Class Action Complaint filed in the above-captioned matter on October 20, 2014 (Docket #28).

8. The term “Policy” or “Policies” means any practice, procedure, directives, routine, rules, courses of conduct or code of conduct, written or unwritten, formal or informal, recorded or unrecorded, which were recognized, adopted, issued or followed by You.

9. The word “Statement” means any written statement, signed or otherwise adopted or approved by the person making it or a stenographic, mechanical, electrical or other recording or transcription thereof which is a substantial verbatim recital or an oral statement by the person making it and contemporaneously recorded.

10. The term “correspondence” includes any letters, electronic mail (e-mail) transmissions, telegrams, telexes, cables, transcripts agreements, newsletters, bulletins, contracts, notes, memoranda, jottings, projections, inter-office correspondence, reports, opinions, workpapers, diaries, daybooks, notebooks, calendars, address and telephone records, manuals, guidebooks, journals, ledgers, journal entries, accounting books and records, spread sheets, micro-fiche cards, microfilms, photographs, files, appraisals, surveys, financial statements, financial forecasts, computer programs, computer printouts, manuals, and all preliminary versions and drafts, revisions of, or notations on any of the foregoing, including all non-identical copies and drafts of any of the foregoing, and all summaries, analyses, or reports relating or referring in whole or in part to any of the foregoing.

11. The term “electronic database” means a computer database in Microsoft Excel format, or other mutually agreeable format, that provides the requested data sets in spreadsheet format.

12. “NHL Player” means any active or former player who was a member of an active roster for any NHL member club during the preseason, regular season, or postseason.

13. The term “Retired NHL Player” means any individual who played hockey for the National Hockey League and its member teams during the relevant time period but no longer plays hockey in that capacity.

14. All other terms should be given and interpreted according to their common and typical meanings and usage.

## Instructions

1. You are requested to produce all documents in your possession, custody, or control that are described below. In so doing, please furnish documents that are in the possession of your partners, officers, employees, attorneys, accountants, representatives, or agents, or that are otherwise subject to your custody or control.

2. All Documents must be produced according to Pretrial Order No. 7 Protocol for the Production of Hard Copy Documents and Electronically Stored Information (“ESI”) and any subsequent or other agreement between the parties related to the production of Documents or ESI.

3. Unless otherwise indicated, the documents to be produced include all documents prepared, sent, dated or received, or those that otherwise came into existence any time during the time period described herein.

4. The production by one person, party, or entity of a document does not relieve another person, party, or entity from the obligation to produce his, her, or its own copy of that document, even if the two documents are identical.

5. In producing documents, you are requested to produce a copy of each original document together with a copy of all non-identical copies and drafts of that document. If the original of any document cannot be located, a copy shall be provided in lieu thereof, and shall be legible and bound or stapled in the same manner as the original.

6. Documents shall be produced as they are kept in the usual course of business. All documents shall be produced with a copy of the file folder, envelope, or other container in which the documents are kept or maintained. All documents shall be

produced intact in their original files, without disturbing the organization of documents employed during the conduct of the ordinary course of business and during the subsequent maintenance of the documents.

7. Documents not otherwise responsive to this discovery request shall be produced if such documents mention, discuss, refer to, or explain the documents which are called for by this discovery request, or if such documents are attached to documents called for by this discovery request and constitute routing slips, transmittal memoranda, or letters, comments, evaluations or similar materials.

8. Each document requested herein is requested to be produced in its entirety and without deletion or excisions, regardless of whether you consider the entire document to be relevant or responsive to this request. If you have redacted any portion of a document, stamp the word "redacted" on each page of the document that you have redacted.

9. If any document called for by these requests is not produced in full or is redacted on the ground that it is privileged or otherwise claimed to be protected against production, you are requested to provide the following information with respect to each such document or redaction:

- (a) its date;
- (b) its author(s), its signatory(s) and each and every other person who prepared or participated in its preparation;
- (c) the type of document it is (e.g., letter, chart, memorandum, etc.);
- (d) a description of its subject matter and length;

- (e) a list of those persons and entities to whom said document(s) was disseminated, together with their last known addresses and the date or approximate date on which each such person or entity received it;
- (f) a list of all other persons to whom the contents of the document have been disclosed, the date such disclosure took place, the means of such disclosure, and the present location of the document and all copies thereof;
- (g) each and every person having custody or control of the document and all copies thereof; and
- (h) the nature of the privilege or other rule of law relied upon and any facts supporting your position in withholding production of each such document.

10. If you assert an objection to any request, you must nonetheless respond and produce any responsive documents or ESI that are not subject to the stated objection. If you object to part of a request or category, you must specify the portion of the request to which you object, and must produce documents responsive to the remaining parts of the request.

11. Notwithstanding a claim that a document is protected from disclosure, any document so withheld must be produced with the portion claimed to be protected redacted.

12. If any document or ESI is known to have existed but no longer exists, has been destroyed, or is otherwise unavailable, you must identify the document or ESI, the reason for its loss, destruction or unavailability, the name of each person known or reasonably believed by you to have present possession, custody, or control of the original and any copy thereof (if applicable), and a description of the disposition of each copy of the document or ESI.

13. If no document responsive to a request exists, please state that no responsive document or ESI exists.

14. These requests are continuing in nature and require supplemental response and production.

15. Plaintiffs reserve the right to propound additional document requests.

16. These Requests shall be deemed continuing so as to require reasonable supplemental responses as the Defendant or its attorneys obtain further information or materials from the time answers are served until the time of trial.

### **Rules of Construction**

17. “Any,” “all,” and “each” shall be construed as any, all and each.

18. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope

19. The singular form of a noun or pronoun includes the plural form and vice versa.

20. The use of any tense of any verb shall also include within its meaning all other tenses of that verb.

21. A term or word defined herein is meant to include both the lower and upper case reference to such term or word.

### **Relevant Time Period**



The relevant time period for each Document Request is for January 1, 1967 through the present (the “Relevant Time Period”), unless otherwise specifically indicated, and shall include all documents and information that relate to such period, even though prepared or published outside of the relevant time period. If a document prepared before this period is necessary for a correct or complete understanding of any document covered by a request, you must produce the earlier or subsequent document as well. If any document is undated and the date of its preparation cannot be determined, the document shall be produced if otherwise responsive to the production request.

### **Requests for Production of Documents**

**Request No. 1:** All documents that relate to the NHL’s policies and procedures regarding the risk, diagnosis, management or treatment of sub-concussive blows to the head, concussions, brain injuries or long term neurological problems, including Chronic Traumatic Encephalopathy (CTE), for NHL Players.

**Request No. 2:** All documents received by any NHL Commissioner or Deputy Commissioner regarding the risk, diagnosis, management or treatment of sub-concussive blows to the head, concussions, brain injuries or long term neurological problems, including CTE, among NHL Players.

**Request No. 3:** All documents received by any member of the NHL Board of Governors regarding the risk, diagnosis, management or treatment of sub-concussive blows to the head, concussions, brain injuries and long term neurological problems, including CTE, among NHL Players.

**Request No. 4:** All NHL Board of Governor meeting minutes, notes or other

documents related to any meeting attended by any member of the NHL Board of Governors that address or otherwise relate to the risk, diagnosis, management or treatment of sub-concussive blows to the head, concussions, brain injuries or long term neurological problems, including CTE, among NHL Players.

**Request No. 5:** All documents received by, considered, or related to the NHL Competition Committee and any predecessor, including meeting minutes, notes, presentations, or other documents, related to any meeting that discussed, addressed or otherwise related to the risk, diagnosis, management or treatment of sub-concussive blows to the head, concussions, brain injuries or long term neurological problems, including CTE, among NHL Players.

**Request No. 6:** All documents received by, considered, or related to the NHL General Managers Committee, including meeting minutes, notes, presentations, or other documents, related to any meeting that discussed, addressed or otherwise related to the risk, diagnosis, management or treatment of sub-concussive blows to the head, concussions, brain injuries or long term neurological problems, including CTE, among NHL Players.

**Request No. 7:** All documents in the possession, custody or control of any athletic trainers, physicians, or neuropsychologists employed by, or contracting with the NHL that address or otherwise relate to the risk, diagnosis, management or treatment of sub-concussive blows to the head, concussions, brain injuries or long term neurological problems, including CTE, among NHL Players.

**Request No. 8:** All communications between the NHL and any physician, including

but not limited to Dr. Mark Lovell and Dr. Alan Finlayson, that address or otherwise relate to the risk, diagnosis, management or treatment of sub-concussive blows to the head, concussions, brain injuries or long term neurological problems, including CTE, among NHL Players.

**Request No. 9:** All documents that report, compile, summarize or otherwise show the rate of concussions suffered by NHL Players while playing in the NHL, whether measured by frequency per game, frequency per season, frequency per player, frequency per position, or any other evaluative metric.

**Request No. 10:** All documents that discuss, analyze, study, report, compile, summarize or show the causes or potential causes of concussions suffered by NHL players while playing in the NHL.

**Request No. 11:** All documents related to the NHL's efforts to reduce or eliminate the amount or severity of concussions or sub-concussive blows to the head suffered by NHL Players while playing in the NHL.

**Request No. 12:** All insurance policies that may cover any of the claims at issue in this litigation.

**Request No. 13:** All documents analyzing, referencing, or discussing the employment or use by NHL member clubs of "enforcers", "goons", or NHL Players whose primary responsibility during NHL games it to fight or threaten to fight other NHL Players.

**Request No. 14:** All Collective Bargaining Agreements ("CBAs") between the NHL and the NHLPA, including attachments and addendums, to the extent not previously produced.

**Request No. 15:** All documents relating to the NHL Concussion Program, including all drafts of any studies, reports, correspondence, and memoranda, and all correspondence related thereto.

**Request No. 16:** All documents, including but not limited to correspondence and meeting minutes, related to the decision to establish the NHL Concussion Program.

**Request No. 17:** All documents related to the Plaintiffs named in the Master Complaint during and after their NHL careers.

**Request No. 18:** All documents and things exchanged between the NHL and the Neuropsychological Assessment Advisory Board.

**Request No. 19:** All documents related to the creation of the Neuropsychological Assessment Advisory Board.

**Request No. 20:** All documents and things related to the creation of the NHL Neuropsychological Testing Program.

**Request No. 21:** All documents and things exchanged between the NHL and any other person or entity relating to the NHL Neuropsychological Testing Program.

**Request No. 22:** All documents related to the creation of the NHL Department of Player Safety.

**Request No. 23:** All documents received, prepared or considered by any member of the NHL Department of Player Safety, or any predecessor committee, regarding the risk, diagnosis, management or treatment of concussions, brain injuries or long term neurological problems, including CTE, among NHL players.

**Request No. 24:** All documents and things exchanged with Dr. Mark Lovell, Dr. Alan

Finlayson or any other neuropsychologist or physician associated with the NHL regarding sub-concussive blows to the head, concussions, or traumatic brain injury in NHL players.

**Request No. 25:** All documents received, prepared or considered by any member of the NHL Concussion Working Group, or any predecessor committee, regarding the risk, diagnosis, management or treatment of concussions, brain injuries or long term neurological problems, including CTE, among NHL players.

**Request No. 26:** All documents related to the deaths of NHL players Derek Boogaard, Wade Belak, Rick Rypien, and Richard Martin.

**Request No. 27:** All documents related to the deaths of NFL players Mike Webster, Dave Duerson, and Junior Seau.

**Request No. 28:** All documents regarding on ice fighting during NHL games and the risk, diagnosis, management or treatment of sub-concussive blows to the head, concussions, brain injuries, or long term neurological problems among NHL players.

**Request No. 29:** All documents regarding any rule changes or policy changes considered by the NHL or any NHL committee, present or former, regarding on ice fighting, whether ultimately adopted by the NHL or not, including all correspondence, drafts, and working papers related thereto.

**Request No. 30:** All documents related to any concussion evaluation and management protocol and/or policies issued by the NHL Concussion Working Group, including but not limited to the 2009-2010 NHL's Concussion Evaluation and Management Protocol, the 2011 and 2013-2014 updates to the Concussion Evaluation

and Management Protocol.

**Request No. 31:** All documents related to any revisions, comments, or amendments to any concussion evaluation or management protocol and/or policies considered or issued by the NHL Concussion Working Group.

**Request No. 32:** All documents, including but not limited to meeting minutes and notes, regarding NHL Concussion Subcommittee meetings.

**Request No. 33:** Any and all documents related to the NHL's decisions to require players to wear helmets, to require players to wear helmets with face protection (visors or cages), to regulate pad size or material, to prevent or penalize dangerous checking or other conduct that may cause injury to hockey players, and to penalize fighting, including all instances in which it considered and declined to regulate those issues, as well as all changes in its regulation of those issues.

**Request No. 34:** All documents related to any study, evaluation, or assessment of head injuries and the risk of long term neurological problems, including CTE, among professional athletes, including but not limited to, NHL Players and NFL Players.

**Request No. 35:** All documents related to the risk of long term neurological problems, including but not limited to CTE, in professional athletes, including NHL players.

**Request No. 36:** All documents related to informing, advising or warning NHL Players of the long term effects of sustaining repeated concussive and subconcussive impacts to the head while playing hockey in the NHL.

**Request No. 37:** All documents related to statements made by the NHL regarding the

long term effects of sustaining repeated head injuries while playing hockey in the NHL.

**Request No. 38:** All documents related to the 2011 research study of the NHL Concussion Program, Benson, B.; Meeuwisse, W., Rizos, J. Kang, J., Burke, C. *A Prospective Study of Concussions Among NHL Players During Regular Season Games.*

**Request No. 39:** Copies of all League Rules and League Playing Rules throughout the Relevant Time Period.

**Request No. 40:** All documents related to any NHL communications or meetings regarding fighting or violence in hockey, the resulting injuries or potential injuries suffered by hockey players, or the physical or mental health of active or retired hockey players.

**Request No. 41:** Any and all documents, data, communications, information, presentations, or guidance provided to any NHL referee or the NHL Officials Association regarding violence, fighting, injuries, or potential injuries occurring during or as a result of NHL games, including any direction on how to regulate, manage, prohibit, or enable violence, fighting, or potential injuries.

**Request No. 42:** All documents related to the NHL Health Management Panel and all predecessor committees, boards, and entities, including its functions, goals, and communication with active or retired players, teams, team physicians or trainers, or the media; including, but not limited to, any information or data it obtained, collected, developed, or otherwise possessed relating to oversight or treatment of players' medical issues, including in-game violence, fighting, or injuries.

**Request No. 43:** All documents related to the development of or implementation of

any athlete health management system or any equivalent, similar or predecessor system used to electronically track, monitor, diagnose, analyze, treat, prevent, or assess past, present, or future injuries in NHL Players.

**Request No. 44:** All records related to the NHL's implementation of, or revision of previously existing, policies or procedures related to concussion diagnoses resulting from any athlete health management system or any equivalent, similar or predecessor system used to electronically track, monitor, diagnose, analyze, treat, prevent, or assess past, present, or future injuries in NHL Players.

**Request No. 45:** All documents related to the disciplining of NHL Players for on-ice violence or conduct that caused injury to other NHL Players, including the past and present policies, procedures, and process used for deciding whether and how to punish players, any policies related to player discipline, and its decisions to, or not to, discipline players for particular conduct.

**Request No. 46:** All documents related to any changes in the NHL's policies and procedures related to the disciplining of NHL Players for on-ice violence or conduct that caused injury to other NHL Players, including any correspondence, drafts, and working papers related thereto.

**Request No. 47:** All documents related to any television program, film, video, or other production sanctioned by, promoted by, or produced by the NHL, or NHL Original Productions, or for which the NHL, or NHL Original Productions provided any footage or assistance in creating, including, for example, *Broad Street Bullies*, that highlighted, showcased, or in any way related to NHL player fighting, violence, players returning to



action following an injury. This request includes, but is not limited to, documents sufficient to show the revenue earned by the NHL in connection with any such production.

**Request No. 48:** All documents related to “NHL Films,” including but not limited to any correspondence or documents exchanged between the NHL and those responsible for the content on [www.nhlfilmsarchives.com](http://www.nhlfilmsarchives.com), the NHL Films’ Facebook pages, Twitter feeds, and Reddit pages, or reflecting or referring to communications with any person or entity affiliated with NHL Films or any of its print, video, or Internet media.

**Request No. 49:** All documents related to surveys, evaluations, studies, or analyses, regarding on-ice fighting during NHL games or on ice violence during NHL games, including but not limited to any such documents related to the impact of on-ice fighting and violence upon fan perceptions or NHL revenue.

**Request No. 50:** All documents related to the approval by the NHL or any NHL-affiliated entity of any image portraying on-ice fighting, body checking, or violence by NHL Players in any video, film, article, game, production, website, or media of any kind to promote or convey information about the NHL or any NHL member team to the public.

**Request No. 51:** All documents related to policies and procedures regarding the licensing, sale, or use of images of NHL Players portraying on-ice fighting, body checking, or violent conduct.

**Request No. 52:** All documents related to productions, films, videos, articles, stories or photographs posted to, or linked to, NHL.com that relate to body checks, hits or fights,

“Top 10 Hits of the Week” or players returning to action following an injury and/or in-game fights.

**Request No. 53:** All documents related to the NHL’s involvement in, review of, or approval of images of NHL Players fighting or being injured in video game products, including but not limited to, the Enforcer Engine on EA Sports’ NHL ’14 video game.

**Request No. 54:** All documents related to any NHL communications to broadcast media, print media, Internet media, or other media concerning fighting or violence in hockey, the resulting injuries or potential injuries, or the physical or mental health of active or retired hockey players, including, without limitation, spokesperson talking points for use in interviews and statements issued by the Commissioner’s office.

**Request No. 55:** All versions of the NHL Standard Player’s Contract during the Relevant Time Period.

**Request No. 56:** To the extent not produced in connection with the above request for the League Rules, all versions of the NHL Constitution and By Laws during the Relevant Time Period.

**Request No. 57:** All documents related to the NHL’s policies, practices and procedures during the Relevant Time Period concerning the availability, maintenance, storage, organization, accessibility and location of paper and electronic, online and offline documents.

**Request No. 58:** The NHL’s document preservation, document retention and document destruction policies, practices and procedures during the Relevant Time Period, including all documents related to the NHL’s policy for retaining documents related to

litigation or to “litigation holds.”

**Request No. 59:** All documents describing or otherwise relating to the functionality, searchability and operation of the NHL’s computer system(s), method(s), tool(s) or formul(ae), during the Relevant Time Period, for identifying, searching, locating, or retrieving documents by selected criteria, for example, by a specific subject matter (e.g., game injury reports, specifications for NHL-approved helmets applicable to equipment manufacturers, qualifications for trainers, in-game protocol for medical evaluation and treatment of head injuries, return-to-play-after-concussion protocol, player head injuries); author(s) (e.g. Gary Bettman, Bill Daly, Colin Campbell, Stephen Walkom); addressee(s) (e.g., members of NHL Board of Governors, NHL team doctors, NHL Officials Association officers or members, NHLPA officers); date(s); document type (e.g., email, letter, inter-office memorandum, meeting minutes, press release).

**Request No. 60:** All documents describing or relating to the design, capacity, format and architecture of NHL electronic document storage and management systems (“System Architecture”) during the Relevant Time Period, including System Architecture relating to activity and user logs, online data storage, legacy documents, deleted documents, archived documents and active documents.

**Request No. 61:** All documents describing or otherwise relating to the NHL’s policies, practices and procedures for back-up of Electronically Stored Information (“ESI”), including the frequency, methods, and extent of back-ups; the length of time for which backed-up ESI is kept; the searchability of ESI by specific identifying criteria such as subject matter, author, addressee, date and document type; the archiving of backed-up

ESI; the deletion of ESI; and system or activity logs reflecting the collection, storage, use, searches of, archiving and deletion of backed-up ESI.

**Request No. 62:** The NHL's policies, practices and procedures during the Relevant Time Period for the provision of, and use by, NHL personnel of electronic devices, such as desktop computers, laptop computers, Blackberrys, iPhones and other "smartphones," iPads, and Tablets, including a description of such devices and any policies, practices and procedures for transferring documents or other information from such devices to the NHL's data storage devices or systems and for deleting information or documents from such devices.

**Request No. 63:** All documents and things describing the method(s), formul(ae), algorithm(s), searches or other processes by which the documents requested herein can be identified and retrieved.

Dated: January 16, 2015

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*Plaintiffs' Executive Committee*

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

In Re: National Hockey League Players'  
Concussion Injury Litigation

**Case No. 0:14-md-02551 (SRN/JSM)**

**CERTIFICATE OF SERVICE OF  
PLAINTIFFS' FIRST REQUESTS  
FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT  
NATIONAL HOCKEY LEAGUE**

This Document Relates to:

ALL ACTIONS.

I, Brian C. Gudmundson, hereby certify that the foregoing was served on January 16, 2015, upon the counsel below by electronic and U.S. Mail:

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Respectfully submitted,

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