

**JUDGMENT in T-743-24**

**THIS COURT’S JUDGMENT is that:**

1. In this Judgment, “**Protected Live Content**” refers to the full live event footage and/or full live telecast of certain live sports events produced and/or broadcast by some or all of the applicants in Canada, as the case may be, and for which that or these applicants either own the copyright or benefit from an exclusive license, as listed in Schedule 1.
2. The John Doe Respondents, by themselves or by their employees, representatives and agents, or by any company, partnership, trust, entity or person under their authority or control, or with which they are associated or affiliated, shall immediately cease providing unauthorized access to live streams of Protected Live Content owned or exclusively licensed by the applicants in Canada, including by directly or indirectly operating, maintaining, and/or promoting unauthorized streaming servers that provide or facilitate access to live streams of Protected Live Content in Canada, and are restrained from otherwise, directly or indirectly:
  - (a) communicating Protected Live Content to the public by telecommunication in Canada, including transmitting or otherwise making available Protected Live Content to the public by telecommunication in a way that allows members of the public to have access to it from a place individually chosen by them; and
  - (b) inducing and/or authorizing anyone to infringe the applicants’ right to communicate Protected Live Content to the public by telecommunication in Canada.

3. Subject to the terms of this Judgment, the Third Party Respondents shall, during each of the Protected Live Content Windows (as this term is defined in Confidential Schedule 2 of this Judgment) specified in Schedule 1 of this Judgment, subject to paragraph 4 of this Judgment, block or attempt to block access, by at least their residential wireline Internet service customers, to each of the IP addresses for the Target Servers (as this term is defined in Confidential Schedule 2 of this Judgment and as may be hereafter varied) which the applicants or their appointed agent have notified to the Third Party Respondents in accordance with this Judgment.
4. Timing of implementation:
  - (a) The Third Party Respondents shall begin to block access to the IP addresses of the Target Servers notified pursuant to this Judgment immediately, if they are in a position to do so;
  - (b) Any Third Party Respondent that cannot immediately begin implementation of this Judgment shall take steps to comply without delay, and in any case shall begin to block access under this Judgment no later than seven (7) days after it is issued; and
  - (c) Any Third Party Respondent that is unable to fully comply with the terms of this Judgment within fifteen (15) days shall advise the applicants, pursuant to the terms of paragraph 9 of this Judgment.
5. The applicants shall collectively appoint a single agent to fulfill the duties outlined in this Judgment (the “**Agent**”).

6. The Agent may notify to the Third Party Respondents an IP address to be blocked as a Target Server pursuant to paragraph 3 of this Judgment if:
  - (a) The Agent has detected that the IP address is being used:
    - (i) during any Protected Live Content Window, to communicate Protected Live Content to the public by telecommunication without authorization; or
    - (ii) during any Pre-Monitoring Period (as defined in Confidential Schedule 2 of this Judgment) to communicate to the public by telecommunication without the applicants' authorization a station on which Protected Live Content is scheduled to be broadcast during a Protected Live Content Window corresponding to that Protected Live Content; or
    - (iii) in a manner that meets one or more of the detection conditions specified in paragraphs 2(c) and 2(d) of Confidential Schedule 2 of this Judgment; and
  - (b) the Agent has concluded that at the time of the detection the IP address satisfies the safeguard requirements of paragraph 2(e) and 2(f) of Confidential Schedule 2 of this Judgment.
  
7. When a Protected Live Content Window concludes and no other Protected Live Content Window is ongoing, the Agent shall give notice to the Third Party Respondents in accordance with this Judgment to unblock all Target Servers that have previously been notified for blocking. The Third Party Respondents shall use reasonable efforts to unblock as soon as reasonably practical after the end of the Protected Live Content Window.

8. The Third Party Respondents have no obligation to verify whether the IP addresses to be blocked as Target Servers notified by the Agent pursuant to this Judgment have been correctly identified, and are wholly reliant on the applicants or the Agent accurately identifying and communicating to the Third Party Respondents such IP addresses in compliance with this Judgment. The Third Party Respondents also have no obligation to verify the accuracy or compliance of proposed updates to Schedule 1 or 2 of this Judgment requested or made by the applicants pursuant to paragraphs 19 to 21 of this Judgment, and are wholly reliant on the applicants, the Agent and the Expert in this regard.
9. A Third Party Respondent will be deemed to have complied with paragraph 3 of this Judgment if it uses either manual or automated IP address blocking, or an alternative or equivalent technical means (provided that the Third Party Respondent provides reasonable notice to the applicants of said alternative or equivalent means). If a Third Party Respondent is unable to implement either manual or automated IP address blocking, or IP address rerouting, or alternative or equivalent technical means, that Third Party Respondent shall, within fifteen (15) business days of this Judgment or of first becoming aware it is unable to implement the blocking, as applicable, notify the applicants of the step(s) it has taken and why it will be unable to comply with the Judgment.
10. When blocking access to an IP address pursuant to paragraph 3 of this Judgment, the Third Party Respondents shall use reasonable efforts, subject to the limits of their networks and resources, to disable access to the IP address as soon as practicable

following the notification by the applicants or their appointed Agent pursuant to this Judgment. For each Protected Live Content Window, a Third Party Respondent will be deemed to have complied with paragraph 3 of this Judgment if it uses the technical means set out in paragraph 9 of this Judgment within thirty (30) minutes of the start of the Protected Live Content for that Protected Live Content Window, and at least every thirty (30) minutes thereafter until the end of that Protected Live Content Window, or according to such other schedule as may be agreed between the relevant Third Party Respondent and the applicants in writing. For greater certainty, the Third Party Respondents are not required to make capital investments to acquire additional software and/or hardware to implement the present Judgment.

11. A Third Party Respondent shall not be in breach of this Judgment if it temporarily suspends its compliance with paragraph 3, in whole or in part, when such suspension is reasonably necessary:
  - (a) to correct or investigate potential over-blocking that is caused or suspected to be caused by the steps taken pursuant to paragraph 3;
  - (b) to maintain the integrity or quality of its Internet services or the functioning of its network and/or system(s);
  - (c) to upgrade, troubleshoot or maintain its Internet services or blocking system(s), including as a result of technical or capacity limitations of its blocking system(s); or
  - (d) to prevent or respond to an actual or potential security threat to its network or systems,

provided that:

- (e) the Third Party Respondent gives notice to the applicants as soon as reasonably practical in advance of, during or following such suspension and provides the reason for such suspension and an estimate of its duration, or if the suspension does not last longer than forty-eight (48) hours, uses commercially reasonable efforts to maintain a record of the suspension and provides that record to the applicants upon request; and
- (f) the suspension lasts no longer than is reasonably necessary.

For greater certainty, a Third Party Respondent shall not be in breach of this Judgment where it suspends, in part, compliance with paragraph 3 because the capacity of its blocking system is exceeded by the number of IP addresses for the Target Servers notified in accordance with this or another Judgment or Order, provided it continues to block or attempt to block access to the number of IP addresses that does not exceed the capacity of its blocking system. A Third Party Respondent may hold a reasonable portion of its capacity in reserve if it deems it necessary to do so in order to be able to respond to threats to its subscribers and to maintain the integrity of its network and services. Any such measure must be justified with reference to the network capacity used for similar purposes within the twelve (12) months preceding this Judgment.

The applicants shall treat any information received pursuant to this paragraph confidentially and shall use it solely for the purposes of monitoring compliance with this Judgment.

### **Notifications of IP addresses of Target Servers to the Third Party Respondents**

12. Any notifications given by the Agent under paragraph 6 of this Judgment must:
  - (a) be notified to the Third Party Respondents by means of publishing a consolidated list of all the IP addresses of the Target Servers to be blocked during each Protected Live Content Window on a secure electronic platform to which each of the Third Party Respondents has been given access by arrangement with the Agent, in the manner specified in paragraphs (b) - (d);
  - (b) be in a fully specified data format, that is provided to the Third Party Respondents in advance;
  - (c) be published to said platform on an ongoing basis during each Protected Live Content Window, and (save as set out in paragraph 13 below) not during other periods; and
  - (d) be published in such a manner that they are brought actively to the attention of all Third Party Respondents as contemporaneously as is reasonably practicable.
  
13. Any notifications given by the Agent under paragraph 7 of this Judgment must be notified to the Third Party Respondents by the same means as those specified in paragraph 12 of this Judgment and given within fifteen (15) minutes of the expiry of the relevant Protected Live Content Window, and shall be effected by publishing a list containing a single previously-disclosed IP address controlled by the Agent.
  
14. The notifications of IP addresses of Target Servers to the Third Party Respondents pursuant to this Judgment will follow the technical requirements set out in Confidential Exhibit GD-14 to the Affidavit of George Demetriades sworn on April 5, 2024.

### **Notification to Target Servers**

15. Where the Agent notifies an IP address for blocking in accordance with paragraph 6 of this Judgment, the Agent must within a reasonable period of the first occasion when that IP address is notified (being no later than the end of the day on the day of the Protected Live Content Window in question) send to the hosting provider associated with the IP address an electronic notice that contains at least the following information:
- (a) that access to the IP address has been blocked in Canada by Court Judgment;
  - (b) the identity of the applicants who obtained this Judgment and of the applicable Protected Live Content;
  - (c) a link to an internet location from which the public version of this Judgment may be accessed; and
  - (d) a statement that affected server operators have the right to apply to the Court to discharge or vary the Judgment pursuant to paragraph 23 below.

### **Notification to Third Party Respondents' Customers**

16. The applicants shall post this Judgment, as well as an explanation of the purpose of the Judgment, and contact information for any inquires or complaints, on their websites, in a prominent manner.
17. Where access to a Target Server is blocked by a Third Party Respondent pursuant to this Judgment, that Third Party Respondent shall make reasonable efforts to make the following information immediately available to its residential Internet service customers



who attempt to access the Target Servers and whose access is blocked, to the extent it is technically possible and practical with that Third Party Respondent's current technology:

- (a) that access has been blocked by this Judgment;
  - (b) the identity of the applicants and the Federal Court File for this matter and contact information of the applicants, to be provided by the applicants to the Third Party Respondents for use by such customers;
  - (c) a statement to the effect that the operators of the Target Servers (i.e., the Respondents), any third party who claims to be affected by this Judgment, and any Internet service customer affected by the Judgment, may apply to the Court to discharge or vary the Judgment pursuant to paragraph 23 below; and
  - (d) contact information that the applicants' Agent shall provide to the Third Party Respondents, and may update from time to time on thirty (30) days' notice, that enables the affected customer to readily contact the applicants or their Agent to direct any complaints, including false positives.
18. Any personal information collected to achieve the objectives of this Judgment, or collected through any Deep Packet Inspection (DPI) or other system adopted to achieve the objectives of this Judgment, will be used solely for the purposes of providing notice to customers, will not be disclosed, and will only be retained as long as is strictly necessary to ensure the integrity of the customer notification obligation.

### **Changes to Schedule 1**

19. Schedule 1 to this Judgment and the list of "Protected Live Content" may be updated through the following mechanism:

- (a) Any applicant may serve and file up to two motions to amend Schedule 1 to add live sports content, with appropriate evidence and submissions to support the motion including:
  - (i) An affidavit and/or any other admissible evidence demonstrating their ownership or exclusive license in live sports content not already included in Schedule 1 to this Judgment; and
  - (ii) An amended Schedule 1 providing an updated definition of “Protected Live Content”;
- (b) Any additional motions to amend Schedule 1 shall not be filed without leave of the Court;
- (c) Any applicant may direct that this Judgment need not be implemented in relation to rights to live sports content that it no longer has, by providing notice to the Third Party Respondents and filing an affidavit attesting that Protected Live Content already included in Schedule 1 to this Judgment should not longer be included and why, in the same manner as paragraph 21 of this Judgment, below.

### **Changes to Confidential Schedule 2**

- 20. No changes to the contents of Confidential Schedule 2 paragraphs 1(a) to 1(g) and 2(a) to 2(e) may be made unless approved by Order of this Court.
- 21. The applicants may make additions and deletions to Confidential Schedule 2 paragraph 2(f) from time to time, including within seven (7) days of issuance of this Judgment, if the applicants or the Agent become aware that the criteria for inclusion set out at paragraph 187 to the Affidavit of George Demetriades sworn on April 5, 2024,

have been met or are no longer met, as the case may be. If additions are made, the applicants shall also serve and file an affidavit supporting why these additions meet the criteria for inclusion within fifteen (15) days of the addition being made. Additions and deletions shall be made by the applicants giving confidential notice to the Third Party Respondents and filing a confidential letter with the Court, specifying the additions and/or deletions and confirming that the criteria for inclusion have been met or are no longer met, as the case may be. Deletions must be made without delay as soon as the applicants or their Agent become aware that the criteria for inclusion are no longer met.

22. All parties have permission to apply by way of motion to vary the contents of Confidential Schedule 2, such motion to be supported by evidence and on notice to all the other parties.

**Permission to apply**

23. The operators of the Target Servers (i.e., the John Doe Respondents), any other third party who claims to be affected by this Judgment, and any Internet service customer of the Third Party Respondents affected by the Judgment, may bring a motion to seek a variation of this Judgment insofar as this Judgment affects their ability to access or distribute non-infringing content by serving and filing a motion record within thirty (30) days of the first occurrence of the event that allegedly affects them and that results from this Judgment.
24. This Judgment shall in no way limit the ability of a Third Party Respondent to seek to stay, vary, or set aside this Judgment or oppose on any basis any other related or similar

Order or Judgment sought by the applicants or any other party. In particular and without limitation, this Judgment shall in no way limit the ability of a Third Party Respondent to raise issues in connection with the implementation of this Judgment on grounds relating to the technical implementation of this Judgment, impacts on a Third Party Respondent's services to its subscribers, or the effectiveness of the Judgment in preventing the unauthorized streaming during Protected Live Content Windows.

**Sunset clause**

25. With the exception of the permanent injunction against the John Doe Respondents set out at paragraph 2 and subject to any further Order or Judgment of this Court, this Judgment shall terminate two (2) years after its date of issuance.

**Confidentiality**

26. The motion for an order under Rule 151 is granted. The following documents filed in support of the applicants' application for the issuance of the present Judgment shall continue to be treated as confidential under Rules 151-152 of the *Federal Courts Rules* and be sealed in the Court record:
- (a) The confidential version of the affidavit of Ben Grad;
  - (b) The confidential version of the affidavit of Damian Poltz;
  - (c) The confidential version of the affidavit of Andre LeBlanc;
  - (d) The confidential version of the affidavit of Juan Manuel Ramos Gurrion;
  - (e) The confidential version of the affidavit of George Demetriades;

- (f) The confidential version of the applicants' Memorandum of Fact and Law (a public version having been provided);
  - (g) Schedule 2 to this Judgment, which pertains to the detection and notification criteria;
  - (h) Reports to be submitted to the Court pursuant to paragraphs 32 and 33 and affidavits filed pursuant to paragraphs 34-35; and
  - (i) Notifications submitted to the Court pursuant to paragraph 21, (collectively, "Confidential Information").
27. The Confidential Information shall be treated as confidential by the Registry of the Court and shall not be available to anyone other than the applicants, the Third Party Respondents and appropriate Court personnel except as permitted by the *Federal Courts Rules* or as otherwise ordered by this Court. Any Respondent or third party bringing a motion pursuant to paragraph 23 of this Judgment who wishes to have access to the Confidential Information for the purposes of these proceedings shall serve and file a motion record seeking leave from the Court to have access to the Confidential Information.
28. Any party who is authorized to have access to the Confidential Information pursuant to paragraph 27 of this Judgment may only make use of the Confidential Information for the purposes of these proceedings and shall not disclose the Confidential Information to anyone (except their legal counsel or experts who have been informed of the present Judgment), without leave from the Court.

## Reporting to the Court

29. The applicants shall retain the services of Mr. David Lipkus as an independent expert to review the application of the criteria by the applicants' Agent for the identification of IP addresses for blocking, including the application of all of the criteria set out in Confidential Schedule 2 ("**Expert**"). If Mr. Lipkus is unavailable, unable or unwilling to act as independent expert, or if the applicants seek to retain a different independent expert, the applicants shall, with input from the Third Party Respondents, propose up to three potential experts by letter to the Court, and the Court will advise the applicants which potential expert they must retain.
30. The Expert shall be provided the necessary access to facilities, processes or information that is needed to fulfil these responsibilities.
31. The Expert will be subject to an ongoing obligation of confidentiality and shall not disclose any information obtained pursuant to this mandate, except as permitted by the terms of this Judgment.
32. The Expert will prepare:
  - (a) An Initial Confidential Report, which shall be prepared and provided to the parties and the Court, on a confidential basis, within thirty (30) days of the 1-year anniversary of the issuance of this Judgment;
  - (b) An Initial Public Report, which shall be prepared following consultations with all parties as to proposed redactions or alternate wording needed to protect confidential information in the Initial Confidential Report. If the parties cannot agree on

proposed redactions, the Expert can seek the assistance of the Court to resolve the issue. This Initial Public Report shall be issued as soon as is feasible following the completion of the Initial Confidential Report. This Initial Public Report shall be posted on each party's website within thirty (30) days of its completion, replacing the reports posted on each party's website with regard to the implementation of live and dynamic IP address blocking order issued by this Court on May 27, 2022 (T-955-21), November 21, 2022 (T-955-21), and July 18, 2023 (T-1253-23);

- (c) A Final Confidential Report, which shall be prepared and provided to the parties and the Court, on a confidential basis, within sixty (60) days of the termination of this Judgment pursuant to paragraph 25 above; and
- (d) A Final Public Report, which shall be prepared following consultations with all parties as to proposed redactions or alternate wording needed to protect confidential information in the Final Confidential Report. If the parties cannot agree on proposed redactions, the Expert can seek the assistance of the Court to resolve the issue. This Final Public Report shall be issued as soon as is feasible following the completion of the Final Confidential Report. This Final Public Report shall be posted on each party's website within thirty (30) days of its completion, replacing the Initial Public Report, and be kept online for a period of no less than six (6) months.

- 33. In the event the Expert identifies any material issue in the application of the criteria by the applicants' Agent for the identification of IP addresses for blocking, including the application of all of the criteria set out in Confidential Schedule 2, he shall report on such

issues to the applicants, the Third Party Respondents and the Court within fifteen (15) business days, independently of the reporting schedule set out at paragraph 32.

34. Within thirty (30) days of the 1-year anniversary of the issuance of this Judgment, the applicants shall file with the Court, and serve on all Third Party Respondents, one or more affidavits comprising (i) a confidential list of all IP addresses that were notified for blocking pursuant to this Judgment, with the dates and times on which they were required to be blocked, and the criteria which were applied that resulted in them being notified for blocking; (ii) the details of any complaint received from operators of Target Servers, their hosting provider or any other third party (including customers of the Third Party Respondents); and (iii) any material technical issues encountered with the implementation of this Judgment, including any issues reported by the Third Party Respondents to the applicants.
35. Within sixty (60) days of the termination of this Judgment pursuant to paragraph 25 above, the applicants shall file with the Court, and serve on all Third Party Respondents, one or more affidavits comprising the information of points (i) to (iii) listed at paragraph 34 above, and (iv) any relevant available data pertaining to the effectiveness of the Judgment.

### **Costs of Implementation**

36. The applicants shall indemnify and save harmless the Third Party Respondents for:
  - (a) the reasonable marginal cost of implementing this Judgment, up to a maximum amount of \$50,000.00; and



- (b) any reasonably incurred loss, liability, obligation, claim, damages, costs (including defence costs), or expenses resulting from a third party complaint, demand, action, claim, application or similar proceeding whether administrative, judicial, or quasi-judicial in nature, in respect of the Third Party Respondents as a result of their compliance with the Judgment.
  
- 37. With respect to the costs referenced in paragraph 36(a) above:
  - (a) the Third Party Respondents shall provide the applicants with an itemized invoice setting out the claimed costs elements and the total cost claimed, within sixty (60) days of the termination of this Judgment pursuant to paragraph 25 above; and
  - (b) the applicants shall, within thirty (30) days of receipt of the invoice, either (i) pay the invoice; or (ii) serve and file a motion disputing the reasonableness of the costs claimed in the invoice, failing which the costs shall be deemed to be reasonable.
  
- 38. The undersigned will remain seized for this proceeding including any motions arising in relation to this Judgment, subject to any Direction from the Chief Justice.
  
- 39. There is no costs order.

“Andrew D. Little”

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Judge

**SCHEDULE 1: PROTECTED LIVE CONTENT  
AND PROTECTED LIVE CONTENT WINDOWS**

	<b>Owner or Exclusive Licensee</b>	<b>Protected Live Content</b>	<b>Protected Live Content Window</b>
1	Rogers Media Inc. Rogers Communications Inc. BCE Inc. Bell Media Inc. CTV Specialty Television Enterprises Inc. The Sports Network Inc. Le Réseau des Sports (RDS) Inc. Groupe TVA Inc.	National Hockey League  (NHL)	All national and regional NHL games broadcast in Canada by any of the applicants in the first column, via television broadcast and/or online streaming during the 2023-2024 NHL season, including the 2024 Stanley Cup playoffs and final series, as per the schedule found on the NHL website ( <a href="http://www.nhl.com/schedule">www.nhl.com/schedule</a> ), subject to variations by the NHL, as may be notified to the Third Party Respondents by the applicants and/or their Agent from time to time.
2	BCE Inc. Rogers Communications Inc.	National Basketball Association  (NBA)	The following NBA games for the 2023-2024 to the 2025-2026 NBA seasons:  a) All pre-season NBA games and all regular season NBA games played by the Toronto Raptors basketball club;  b) All regular season NBA games involving one or more NBA teams (other than the Toronto Raptors basketball club) that are broadcast on the Sportsnet or TSN stations; and  c) All playoff NBA games involving one or more NBA teams (including the Toronto Raptors basketball club).

	<b>Owner or Exclusive Licensee</b>	<b>Protected Live Content</b>	<b>Protected Live Content Window</b>
3	FuboTV Inc.	Premier League	All Premier League matches for the 2023-2024 and 2024-2025 seasons.

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-743-24

**STYLE OF CAUSE:** ROGERS MEDIA INC., ROGERS COMMUNICATIONS INC., BCE INC., BELL MEDIA INC., CTV SPECIALTY TELEVISION ENTERPRISES INC., THE SPORTS NETWORK INC., LE RESEAU DES SPORTS (RDS) INC., GROUPE TVA INC., FUBOTV INC. and JOHN DOE 1, JOHN DOE 2, JOHN DOE 3, OTHER UNIDENTIFIED PERSONS WHO OPERATE UNAUTHORIZED STREAMING SERVERS THAT PROVIDE OR WILL PROVIDE ACCESS TO CONTENT OWNED OR EXCLUSIVELY LICENSED BY THE APPLICANTS IN CANADA AND BELL CANADA, BRAGG COMMUNICATIONS INC. dba EASTLINK, COGECO CONNEXION INC., FIDO SOLUTIONS INC., ROGERS COMMUNICATIONS CANADA INC., SASKATCHEWAN TELECOMMUNICATIONS, TEKSAVVY SOLUTIONS INC., TELUS COMMUNICATIONS INC., VIDEOTRON LTD., 2251723 ONTARIO INC. dba VMEDIA (THIRD PARTY RESPONDENTS)

**PLACE OF HEARING:** OTTAWA, ONTARIO (BY VIDEOCONFERENCE)

**DATE OF HEARING:** JUNE 3, 2024

**CONFIDENTIAL JUDGMENT AND REASONS:** A.D. LITTLE J.

**DATED:** JULY 9, 2024

**APPEARANCES:**

Guillaume Lavoie Ste-Marie  
Christopher Guaiani  
Nicholas Di Piano

FOR THE APPLICANTS

No one appearing

FOR THE RESPONDENTS  
JOHN DOE 1, JOHN DOE 2, JOHN DOE 3, AND  
OTHER UNIDENTIFIED PERSONS WHO OPERATE

UNAUTHORIZED STREAMING SERVERS THAT  
PROVIDE OR WILL PROVIDE ACCESS TO  
CONTENT OWNED OR EXCLUSIVELY LICENSED  
BY THE APPLICANTS IN CANADA

Guillaume Lavoie Ste-Marie  
Christopher Guaiani  
Nicholas Di Piano

FOR THE THIRD PARTY RESPONDENTS  
BELL CANADA, FIDO SOLUTIONS INC.,  
ROGERS COMMUNICATIONS CANADA INC.,  
VIDEOTRON LTD AND  
2251723 ONTARIO INC. DBA VMEDIA

No one appearing

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Bob Sotiriadis  
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Jamie Patterson

FOR THE THIRD PARTY RESPONDENT  
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No one appearing

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