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and National Football League Players Incorporated d/b/a Players Inc  
19

20 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

21 BERNARD PAUL PARRISH, HERBERT  
22 ANTHONY ADDERLEY, WALTER  
23 ROBERTS III,

24 Plaintiffs,

25 v.

26 NATIONAL FOOTBALL LEAGUE  
27 PLAYERS ASSOCIATION and NATIONAL  
FOOTBALL LEAGUE PLAYERS  
INCORPORATED d/b/a/ PLAYERS INC,

28 Defendants.

Case No. C 07 0943 WHA

**DECLARATION OF ANDREW  
FEFFER IN SUPPORT OF  
DEFENDANTS' OPPOSITION TO  
PLAINTIFFS' MOTION FOR LEAVE  
TO FILE A THIRD AMENDED  
COMPLAINT**

**PUBLIC VERSION**

**DECLARATION OF ANDREW FEFFER**

Andrew Feffer, being duly sworn, deposes and hereby declares, as follows:

1. I am Executive Vice President and Chief Operating Officer of National Football League Players Incorporated ("Players Inc") and have held that position since December 4, 2006. I am over twenty-one years of age and have personal knowledge of each of the facts stated herein. If called upon to testify, I could and would testify completely thereto.

2. Players Inc has generated and remitted to retired players tens of millions of dollars over the years from the licensing and marketing of retired players' likenesses or images.

[REDACTED]

3. [REDACTED] was a tiny fraction of, and does not remotely offset, Players Inc's costs for generating, facilitating, and coordinating such licensing, marketing, and appearances activities over this four-and-one-half-year period.

4. I understand that in their Third Amended Complaint ("TAC"), Plaintiffs make several allegations regarding Players Inc's Retired Player Group Licensing Program, the Sponsorship Agreement between Players Inc and NFL Properties, Inc. ("Sponsorship Agreement"), and several licensing agreements.

5. A retired player may submit a signed Group Licensing Authorization form ("GLA"), which "authorizes the National Football League Players Association ('NFLPA') and its licensing affiliates the non-exclusive right to use their name, signature, facsimile, voice, picture, photograph, likeness, and/or biographical information (collectively 'image') in the NFLPA Retired Player Group Licensing Program." (emphasis added). This language confirming

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1 that the authorization is non-exclusive is included in both of Herbert Adderley's executed GLAs,  
2 which are attached to the TAC as Exhibits B and C thereto.

3 6. The non-exclusive nature of the GLAs permits retired players to pursue  
4 group licensing opportunities with other licensees. One recent and prominent example is the  
5 football video game All-Pro Football 2k8, which was released by Take-Two Interactive. Take-  
6 Two Interactive did not license any retired players' likenesses or images from Players Inc in  
7 connection with this video game. Nevertheless, All-Pro Football 2k8 features the likenesses or  
8 images of 254 retired NFL players.

9 7. I have directed members of Player Inc's staff to review our records to  
10 determine whether any of the 254 retired NFL players featured in All-Pro Football 2k8 are  
11 members of the NFLPA Retired Players Association or have signed GLAs identical to the one  
12 signed by Adderley and attached as Exhibit C to the TAC. Based on that review, approximately  
13 [redacted] of those 254 retired NFL players are regular dues-paying members of the NFLPA Retired  
14 Players Association and [redacted] of the 254 retired NFL players signed GLAs that are the same as the  
15 one signed by Adderley and attached as Exhibit C to the TAC.

16 8. All-Pro Football 2k8 has received significant media coverage for its use of  
17 the likenesses or images of retired NFL players. Attached hereto as Exhibits A-C are true and  
18 correct copies of media reports regarding All-Pro Football 2k8.

19 9. All-Pro Football 2k8 competes with the Madden 2008 football video game,  
20 which is a Players Inc-licensed product released by Electronic Arts ("EA"). The licensing  
21 agreement between Players Inc and EA executed in 2004, [redacted]  
22 [redacted] also received significant and extensive media  
23 coverage. A small sampling of the significant media coverage, for example, is referred to in  
24 Plaintiffs' Second Amended Complaint ("SAC"), which cites articles from the Wall Street  
25 Journal, Los Angeles Times, Calgary Herald, Arizona Daily Star, and PlayStation Magazine.

26 10. I understand that Plaintiffs allege that [redacted]  
27 [redacted]  
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[REDACTED]

11. In fact, [REDACTED]

[REDACTED]

12. When [REDACTED] or any licensee wants to use the likenesses or images of retired NFL players, such retired players' rights have to be separately obtained.

13. [REDACTED]

[REDACTED]

14. [REDACTED]

[REDACTED]

15. I understand that Plaintiffs also allege that the Retired Player Group Licensing Program and the GLAs operate in an exclusive manner. The only way in which the Retired Group Licensing Program or the GLAs could operate in an exclusive manner is with respect to already-licensed products. The GLAs provide that a player will be excluded from a particular Players Inc group licensing program in which he would otherwise participate only if he commits to an individual exclusive endorsement agreement which conflicts with that program and he notifies Players Inc or the NFLPA. Under no circumstance is a participating player otherwise excluded from a Players Inc group licensing program by signing an exclusive or non-exclusive licensing authorization with another entity.

16. I understand that Plaintiffs also allege that [REDACTED]

[REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 17. [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 18. [REDACTED]

15 [REDACTED] NFL sponsors sometimes request  
16 appearances at and participation in events by individual retired NFL players.

17 19. Typically, Players Inc agrees to such requests on an ad hoc basis. [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

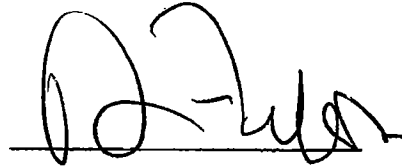
22 20. [REDACTED]

23 [REDACTED] For each business category, generally only one company  
24 may be an NFL sponsor at any one time. For example, General Motors is currently the only  
25 automobile manufacturer that is an NFL sponsor. Thus, even in the limited circumstance (as  
26 discussed above in paragraph 13<sup>15</sup>) where a retired NFL player might be excluded from an  
27 individual exclusive endorsement with General Motors because of a pending NFL players group  
28 licensing promotion [REDACTED], he would still have the opportunity

1 to participate in an individual or group licensing promotion with Ford, Chrysler, Toyota, Honda,  
2 or numerous other automobile manufacturers.

3 I declare under penalty of perjury under the laws of the United States of America  
4 that the foregoing is true and correct.

5 Dated: October 9, 2007



Andrew Feffer

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