

Exhibit B
to the
Declaration of Ryan S. Hilbert In Support of
Plaintiffs' Miscellaneous Administrative Request
to Re-Set Dates and Deadlines

Hilbert, Ryan

From: Hilbert, Ryan
Sent: Monday, December 03, 2007 5:14 PM
To: 'David Feher'
Cc: David Greenspan; Eamon O'Kelly; Katz, Ron; Jeffrey Kessler
Subject: RE: FW: Parrish v. NFLPA

Attachments: Fw: today's call



Fw: today's
call

David:

This responds to your e-mail below as well as to your e-mail of earlier today (a copy of which is attached).

After exchanging several lengthy e-mails on the subject, it is clear that the parties cannot agree on a deadline for Plaintiffs' certification motion. The primary reason for this is the fact that Defendants view Plaintiffs' certification motion and Defendants' discovery obligations as mutually dependent. In contrast, we believe the Court should adopt our proposed deadline for several reasons not entirely related to discovery (many of which were raised in my November 28 e-mail). We note that nothing prevents the parties from continuing to meet and confer on discovery issues while the Court considers scheduling issues.

For these reasons, we will be e-filing today a miscellaneous administrative request in which we ask the Court to adopt the dates on which the parties agree. We are also asking the Court to adopt our proposed deadline and briefing schedule for Plaintiffs' motion for certification. As you requested, we will inform the Court that you disagree with our proposed certification deadline and intend to respond in a pleading of your own.

With respect to your concerns about Defendants' discovery obligations, we are currently formulating a suggestion that we think will reduce the size of Defendants' document production in advance of whatever deadline the Court decides. We will be sending you an e-mail on that issue later today or tomorrow and propose meeting and conferring on that issue soon, if necessary. Rest assured that we share Defendants' concerns about timely producing responsive documents, especially since Plaintiffs' requests have been pending since June 2007.

Ryan

-----Original Message-----

From: David Feher [mailto:dfeher@DeweyLeBoeuf.com]

Sent: Saturday, December 01, 2007 8:02 AM

To: Hilbert, Ryan

Cc: David Greenspan; Eamon O'Kelly; Katz, Ron; Jeffrey Kessler; Bruce Meyer; Joe Nahra; Richard A. Berthelsen, Esq.

Subject: Re: FW: Parrish v. NFLPA

Ryan -

I won't review all of the statements in your response that are inaccurate or with which we disagree, since that would take too long.

Our main point is still that a February 7 deadline date for the class certification motion would artificially create chaos because you are in effect requesting that defendants conduct two separate, comprehensive document productions when there is no reason to do this other than to harrass defendants. Regardless of the number of your requests, you

cannot change the fact that their scope is massive, and that you have indicated that these requests comprise only about 60% of the documents you want to initially request. This is not reasonable. As to the productions to date, there is no comparison. Your clients are individuals who have only a few documents, which you failed to produce notwithstanding your representations to the court that they would be delivered to defendants immediately (in the period before discovery was stayed). Our clients are two business organizations, with scores of employees, correspondingly sized physical files and electronic documents, with a business to conduct at the most critical time of year. We have not delayed at all in our document productions. We produced documents as a courtesy even when it was not required, we produced all of the discrete categories of documents the court ordered to be produced during the pendency of the motions to dismiss, and all discovery was stayed for months while we and the court had to deal with a series of "smoke and mirrors" complaints as to which the court dismissed the vast majority of its claims.

To expect defendants to produce massive amounts of documents now at the drop of a hat in response to discovery requests that were based on complaints that have since been dismissed is not reasonable. In fact, in our meet and confer conversation nearly a week ago, we asked you to give us a proposal so that the document production process can be resumed on an efficient basis so that we do not have two separate comprehensive document productions -- which is inherently unreasonable -- and you have yet to get back to us. Our only goal is to organize discovery in a rational way that is not likely to produce chaos and gratuitous burdens on defendants (and plaintiffs as well).

To the extent you are concerned about the hearing date on the class certification motion, and want an earlier hearing date -- so that plaintiffs' counsel do not have to make further substantial investments in this case before finding out whether their class allegations will be dismissed -- we have a proposal that addresses that issue without disrupting discovery as you have proposed. Specifically, we suggest that the class certification motion deadline be March 14, but that the motion be scheduled and briefed on a 35 day track instead of a 49 day track. (Both sides would need to be efficient in conducting any necessary supplementary depositions after the moving brief is filed, but there is no reason that can't be done.) This would result in a hearing date of April 18, which is more than reasonable under the circumstances.

We believe this further suggested compromise works, and is much more likely to avoid the chaos your proposal is likely to produce. I note that we have yet to receive any counterproposal at all from you on this issue, which is critical to the overall schedule.

We look forward to your response, which we continue to believe can be resolved on an agreed upon basis, rather than resorting to the court without any attempt on your part to compromise on this issue.

David

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----- Original Message -----

From: "Hilbert, Ryan" [RHilbert@manatt.com]

Sent: 12/01/2007 12:28 AM

To: David Feher

Cc: David Greenspan; Eamon O'Kelly; "Katz, Ron" <RKatz@manatt.com>; Jeffrey Kessler; "Bruce Meyer" <bruce.meyer@weil.com>; "Joe Nahra" <joe.nahra@nflplayers.com>; "Richard A. Berthelsen, Esq." <richard.berthelsen@nflplayers.com>
Subject: RE: FW: Parrish v. NFLPA

David:

It is unfortunate that Defendants are unwilling to agree to a date that, as explained in my e-mail of November 28, tracks what Judge Alsup originally had in mind during the June 14 CMC. We have already agreed to each of the dates you counter-proposed to the dates listed in my November 21 letter. Having made such progress, it is further unfortunate that Defendants are unwilling to, at a minimum, participate in a joint stipulation that will allow the Court to determine for itself when it wishes to hear Plaintiffs' certification motion.

Once again, we believe that a February 7 deadline is preferable because it is in both parties' interests to have a determination on whether this case can be certified soon. As explained below, with a 49-day track, the deadline for Defendants to file their opposition would be February 28. Even though Jeffrey and Eamon are only two of the over a dozen attorneys representing Defendants in this case (11 of whom have been admitted pro hac), this is at least a month after their trial in January. A February 7 deadline would also result in a March 27 hearing. Assuming the Court rendered its decision shortly thereafter, this issue could be resolved one way or another well before the parties had to engage in expert discovery, thereby possibly conserving resources. It would also give the parties sufficient time to conduct any last-minute discovery, if necessary, thereby relieving some of the pressure of having to do so while dealing with the certification motion.

In contrast, we believe that your proposed deadline of March 14 is too late. March 14 is three and one-half months from today, and a mere two months before the close of discovery. A deadline of March 14 means a hearing date of May 2. With the close of discovery and the deadline for Plaintiffs to file their expert reports only 3 weeks later on May 23, this means that the parties would have to engage in a significant amount of work at the same time they are dealing with certification. Defendants were the ones who asked for the stay on discovery, which, among other things, vacated the three depositions Plaintiffs had confirmed with Defendants for September 2007. Now that discovery has resumed, you are essentially asking Plaintiffs to face the consequences of your request by agreeing to delayed discovery and a compressed schedule on the back end. This is simply unfair.

With respect to the status of Defendants' discovery, we note that Defendants have had our requests since June 15, 2007. Contrary to your allegations, Plaintiffs served only 22 narrow requests on Defendants (which were already narrowed from Plaintiffs' June 11 requests at the urging of Eamon to the Court on June 14). Two of these requests -- Nos. 11 and 12 -- currently do not require a response absent a Court order. Plaintiffs' 22 requests are also in stark contrast to the 56 requests Defendants served on Plaintiffs five weeks later. We strongly disagree with your suggestion that Defendants need until possibly February 2008 to produce documents responsive to 20 requests served in June 2007. As you know, Plaintiffs have already produced all responsive documents to Defendants' 56 requests.

We also disagree with your suggestion that Plaintiffs intend to force Defendants to conduct two massive document productions. Plaintiffs simply expect to receive those documents that are long overdue, at which point they will determine whether and which additional documents are necessary. This is very typical in a litigation such as this.

Under the circumstances, you have given us no choice but to go in ex parte early next week. As requested, we will inform the Court that you disagree with our proposed deadline of February 7 (even though we agreed to each of your counter-proposed dates) and thus wish to file an opposition.

Ryan

-----Original Message-----

From: David Feher [mailto:dfeher@DeweyLeBoeuf.com]

Sent: Friday, November 30, 2007 4:59 PM

To: Hilbert, Ryan

Cc: David Greenspan; Eamon O'Kelly; Katz, Ron; Jeffrey Kessler; Bruce Meyer; Joe Nahra; Richard A. Berthelsen, Esq.

Subject: Re: FW: Parrish v. NFLPA

Ryan -

Jeffrey and I have spent all day at a court hearing and flying back to our offices. We have seriously considered your position and the practical possibilities for the class certification motion deadline.

We continue to believe that the need to conduct discovery in an orderly fashion would not permit a class certification motion deadline of February 7 as a practical matter. For a number of timing reasons, the deadline you are insisting upon would likely lead to chaos. Our proposal of March 14, just five weeks later, makes much more sense for all concerned.

As previously discussed, defendants' document productions to date have been limited to discrete categories, such as the specific categories that plaintiffs requested through initial "courtesy" productions or the limited categories as ordered by the court during the pendency of the motions to dismiss. Thus, the comprehensive document production you want before the class certification motion -- and presumably before the depositions you also want in connection with the motion -- will be very extensive and needs to be ramped up and conducted in an organized manner. Given the broad scope of the documents you have already requested, this production will take a significant number of weeks to be completed, not to mention the upcoming holidays during which the offices of the NFLPA and Players Inc will be closed, with their employees not in the office. Even with the most diligent efforts, I expect it will take until well into January or early February to complete this extensive production (we of course are willing to produce documents on a rolling basis as they are ready, but this is a reasonable estimate now for a completion date). This estimate does not take into account your request to reopen the issue of financial documents related to defendants' expenditures, which the court has already ruled are not discoverable, but which would potentially involve further massive quantities of documents.

Moreover, since you have also indicated that plaintiffs will have additional document requests in addition to those already made, in a substantial volume such that your requests to date could constitute only about 60% of all the documents you want, this means that you apparently expect plaintiffs to undertake at least two separate massive document productions, as opposed to conducting one comprehensive production with subsequent productions, if any, arising from discrete categories that are not identified until after the initial comprehensive production is done, as is the usual practice. This is most unusual. Even with

discovery not being bifurcated, it is unreasonable to artificially compress the class certification motion so that two, rather than one, massive document productions will need to be done in this manner. Given the costs and disruptions that would be imposed on the NFLPA and Players Inc, and the fact that no harm would result by having the class certification motion deadline on March 14, just 5 weeks after your date (a period we think will allow discovery to be done in an orderly way, although just barely), your refusal to move off the February 7 date appears to have no purpose other than to harrass defendants and impose added costs and disruptions on them.

In addition, we assume you will want our documents to be produced before you do the depositions you seek in connection with the class motion, and a February 7 motion deadline date would not allow those depositions to be conducted in an orderly fashion given that the documents cannot be all produced until just before then, at best.

On top of that, as you know Jeffrey and Eamon will be on trial in January, and the Super Bowl, which is perhaps the most significant annual business event for the NFLPA, Players Inc and their licensees, will take place on February 3 with massive preparations in the weeks leading up to that date (this event is not just a game, but numerous business-related events and meetings for the NFLPA and Players Inc and their licensees). The timing of your request, intentionally or not, would disrupt the business of Players Inc and the NFLPA precisely at the time that would be most harmful to that business.

In short, we believe our proposal that the class certification deadline be March 14 is more than reasonable, and your insistence that the date be February 7 would serve no purpose other than to needlessly harm the business of the NFLPA and Players Inc. We have already moved a full two and a half months off the date we initially proposed. You have not moved off your initial proposal at all, and have not made any reasonable compromise suggestion. This is unfortunate, but we still hope we can reach an agreed upon date.

If you insist on refusing to give us a counter-proposal, and take this matter to the court, we request that you advise the court that defendants oppose your position and want an opportunity to respond to any communication you may have with the court on this question.

David

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----- Original Message -----

From: "Hilbert, Ryan" [RHilbert@manatt.com]
Sent: 11/29/2007 04:31 PM
To: David Feher
Cc: David Greenspan; Eamon O'Kelly; "Katz, Ron" <RKatz@manatt.com>;
Jeffrey Kessler
Subject: RE: FW: Parrish v. NFLPA

David:

The only documents we are currently expecting to receive are those outstanding documents Defendants previously agreed to produce (and perhaps, if the Court so orders, documents responsive to Plaintiffs' Document Request Nos. 11-12). We also anticipate taking no more than 4-5 depositions between now and the February 7 deadline, including depositions of third parties. Incidentally, whether this limited amount of discovery relates to class discovery or merits discovery is irrelevant. As you will recall, Judge Alsup previously rejected Defendants' request to bifurcate discovery into class discovery and merits discovery.

Please let us know today whether you will agree to our proposed date of February 7 so that we can proceed accordingly.

Ryan

-----Original Message-----

From: David Feher [mailto:dfeher@DeweyLeBoeuf.com]
Sent: Thursday, November 29, 2007 10:03 AM
To: Hilbert, Ryan
Cc: David Greenspan; eo'kelly@dl.com; Katz, Ron; jkessler@dbllp.com
Subject: Re: FW: Parrish v. NFLPA

Ryan -

Our main concern is that discovery be conducted in an orderly manner, and that the discovery for the class certification motion not take place in a disjointed way that would unnecessarily disrupt merits discovery, especially with regard to document productions. We may be willing to agree to February 7 as the deadline for the class certification motion, depending on the anticipated scope of discovery before the motion. Please let us know exactly what discovery plaintiffs propose to take in terms of depositions and document productions before the class certification motion, and with luck we can get an agreed date.

David

"Hilbert, Ryan"
<RHilbert@manatt.
com>

To

<dfeher@DeweyLeBoeuf.com>

cc

Sent: 11/28/2007

"David Greenspan"

09:42 PM

<dgreenspan@DeweyLeBoeuf.com>,
<eo'kelly@dl.com>, "Katz, Ron"
<RKatz@manatt.com>,
<jkessler@dbllp.com>

Subject

FW: Parrish v. NFLPA

David:

Thank you for the e-mail below, which I have now discussed with my colleagues.

We appreciate your willingness to advance your originally-proposed May 30 deadline for Plaintiffs' Motion for Certification to mid-March. However, we believe that it is in both parties' interests to have a determination on whether this case can be certified sooner rather than later. This chronology also appears to be the Court's preference; at the June 14 CMC, Judge Alsup originally ordered Plaintiffs to file their cert. motion by September 13, which was early in the discovery period and well before the close of fact discovery. For these reasons and the reasons below, we continue to believe that Plaintiffs' February 7 deadline with a 49-day track is appropriate.

With a 49-day track, a February 7 deadline for Plaintiffs means a February 28 deadline for Defendants to oppose, which is well after Jeffrey and Eamon's trial in January. Considering the relatively small nature of Plaintiffs' document production, and that the limited number of depositions you have previously indicated you intend to take, this should give you more than sufficient time to prepare your opposition.

Once again, given the parties' agreement on all but one of the new dates, we recommend submitting a Joint Stipulation identifying those dates on which the parties agree, and asking the Court to choose for itself the deadline for Plaintiffs' motion. Attached is a revised Joint Stipulation that includes your new proposed date. Provided this stip is acceptable, please sign and return it to me for e-filing with the Court. If it is not acceptable, please let me know tomorrow and we will then seek ex parte relief from the Court.

Very truly yours,
Ryan

Ryan S. Hilbert
Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Building 2

Palo Alto, CA 94304
Tel: (650) 812-1347
Fax: (650) 213-0260

-----Original Message-----

From: David Feher [mailto:dfeher@DeweyLeBoeuf.com]
Sent: Wednesday, November 28, 2007 8:23 AM
To: Hilbert, Ryan
Cc: David Greenspan; eo'kelly@dl.com; Katz, Ron; jkessler@dbllp.com
Subject: Re: Parrish v. NFLPA

Ryan -

We are glad we've been able to reach agreement on almost all of the dates.

As to the class certification deadline, we note that our proposal was that May 30 be the last day for plaintiffs to file their class certification motion. Nothing would preclude plaintiffs from filing the motion earlier, and we are perplexed that you do not want this additional discretion.

In any event, if you wish to move up the date, we would suggest Friday March 14 as a reasonable compromise. Our main concern is that your class certification motion not be artificially compressed into a date that is so early that it will disrupt an orderly discovery schedule, especially since plaintiffs have previously taken the position that they need various depositions as well as a comprehensive document production to take place before the motion. A motion date of February 7 would impose an artificial deadline too soon in our view, particularly because it will take a reasonable amount of time to ramp up and complete the document production, and both Jeffrey and Eamon will be on trial in another case in January.

Mid-March as the class certification motion deadline would minimize the practical disorder from an earlier deadline, and is two and a half months earlier than our initial proposal. Let us know whether this works.

David

David Feher
Dewey & LeBoeuf LLP
1301 Avenue of the Americas
New York, NY 10019
Direct: +1 212 259 8070
General: +1 212 259 8000
Fax: +1 212 259 8072
dfeher@dl.com
www.dl.com

"Hilbert, Ryan"

<RHilbert@manatt.

com>

To

"David Feher"

<dfeher@deweyballantine.com>

Sent: 11/27/2007

cc

06:52 PM

"Katz, Ron" <RKatz@manatt.com>,

<eo'kelly@dl.com>, "David
Greenspan"
<dgreenspan@DeweyLeBoeuf.com>

Subject

Parrish v. NFLPA

David:

Further to our conference call yesterday afternoon, I discussed with my colleagues your proposed changes to the schedule I presented in my November 21, 2007 letter (a copy of which is attached). As explained below, we are amenable to each of your proposed changes, except your change to my proposed deadline for Plaintiffs' Motion for Certification.

During yesterday's call, you suggested keeping my proposed deadline to file expert reports at May 23, 2008, but moving the deadline for "opposition reports" (as that term is defined in the Scheduling Order) to June 13, and my proposed deadline for reply reports from June 13 to June 27. You also suggested moving the cut-off for expert discovery to July 9, and my proposed July 17 deadline for filing dispositive motions up almost one week to July 11. We are amenable to each of these proposed changes.

Also during yesterday's call, you suggested moving my proposed deadline of February 7, 2008 as the last day Plaintiffs could file their Motion for Certification to May 30. Based on our agreement to retain the current 49-day briefing schedule, this would mean that the hearing on Plaintiffs' Motion would also be moved from my proposed date of March 27, 2008 to July 18, 2008. We cannot and do not agree to this proposed change.

Given the parties' agreement on all but one of the new dates, and their significant disagreement on the deadline for Plaintiffs' Motion for Certification, we recommend submitting the attached draft Joint Stipulation to the Court. Provided you agree with this course of action, please sign the attached Joint Stipulation and return it to me for e-filing with the Court.

Very truly yours,

Ryan S. Hilbert
Manatt, Phelps & Phillips, LLP

1001 Page Mill Road, Building 2
Palo Alto, CA 94304
Tel: (650) 812-1347
Fax: (650) 213-0260

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