

1 MANATT, PHELPS & PHILLIPS, LLP  
 2 RONALD S. KATZ (Bar No. CA 085713)  
 3 E-mail: rkatz@manatt.com  
 4 RYAN S. HILBERT (California Bar No. 210549)  
 5 E-mail: rhilbert@manatt.com  
 6 NOEL S. COHEN (California Bar No. 219645)  
 7 E-mail: ncohen@manatt.com  
 8 1001 Page Mill Road, Building 2  
 9 Palo Alto, CA 94304-1006  
 10 Telephone: (650) 812-1300  
 11 Facsimile: (650) 213-0260

12 McKOOL SMITH, P.C.  
 13 LEWIS T. LECLAIR (Bar No. CA 077136)  
 14 E-mail: lleclair@mckoolsmith.com  
 15 JILL ADLER (Bar No. CA 150783)  
 16 E-mail: jadler@mckoolsmith.com  
 17 300 Crescent Court, Suite 1500  
 18 Dallas, TX 75201  
 19 Telephone: (214) 978-4000  
 20 Facsimile: (214) 978-4044

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

CIVIL ACTION NO. C07 0943 WHA

21 BERNARD PAUL PARRISH, HERBERT  
 22 ANTHONY ADDERLEY, and WALTER  
 23 ROBERTS, III on behalf of themselves and  
 24 all others similarly situated,

Plaintiffs

vs.

**MISCELLANEOUS ADMINISTRATIVE  
 REQUEST TO FILE CERTAIN  
 CONFIDENTIAL MATERIALS UNDER  
 SEAL**

25 NATIONAL FOOTBALL LEAGUE  
 26 PLAYERS ASSOCIATION, a Virginia  
 27 corporation, and NATIONAL FOOTBALL  
 28 LEAGUE PLAYERS INCORPORATED  
 d/b/a PLAYERS INC, a Virginia  
 corporation,

Defendants.

1 Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, Civil Local Rules 79-5(d)  
2 and 7-11, and the Court’s inherent authority over its own files and records, Plaintiffs file these  
3 documents in connection with Plaintiffs’ Reply in Support of Their Motion for Class Certification  
4 (“Reply Brief”). Specifically, Plaintiffs request that the Court seal the following documents:

- 5 (1) **An unredacted version of Plaintiffs’ Reply Brief; and**
- 6 (2) **Exhibits 7, 10, 12 and 14 to the Declaration of Ronald Katz in Further**  
7 **Support of Plaintiffs’ Motion for Class Certification (“Katz Decl.”).**

8 The good cause for this request is set forth below.

9 **I. ARGUMENT**

10 Whether or not a protective order is entered in any case is subject to the discretion of the  
11 court. *See Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 36, 104 S. Ct. 2199, 81 L. Ed. 2d 17  
12 (1984) (holding that Rule 26(c) confers “broad discretion on the trial court to decide when a  
13 protective order is appropriate and what degree of protection is required”).

14 **A. Unredacted Version of Plaintiffs’ Reply Brief**

15 As explained in more detail below, Plaintiffs’ Reply Brief contains information designated  
16 as “Highly Confidential – Attorneys Eyes Only” or “Confidential” by the parties. Accordingly,  
17 Plaintiffs’ respectfully request that the unredacted version of the Reply Brief be filed under seal  
18 and that redacted version of the Reply Brief serve as the publicly available version of that  
19 document.

20 **B. Documents Designated by Defendants as “Confidential” or “Highly**  
21 **Confidential – Attorneys Eyes Only” (Exhibits 12 and 14)**

22 Exhibit 14 is a March 31, 2008 letter and errata sheet from Defendants’ counsel relating to  
23 the deposition of Gene Upshaw. Because some of the changes included on the errata sheet quote  
24 and significantly alter testimony designated as “Highly Confidential – Attorneys Eyes Only” or  
25 “Confidential” by Defendants, Plaintiffs seek to file this document under seal also pursuant to  
26 designation by Defendants and the parties’ Protective Order in this matter.

27 In addition, Exhibit 12 is Defendants’ Supplemental Responses and Objections to  
28 Plaintiffs’ Amended Interrogatories. Even though Plaintiffs do not recall Defendants expressly

1 designating this document “Highly Confidential – Attorneys Eyes Only” or “Confidential”, given  
2 the nature of the information included therein, in an abundance of caution, Plaintiffs respectfully  
3 request that this document be filed under seal.

4 Plaintiffs anticipate that Defendants will inform the Court whether either or both of these  
5 document should remain filed under seal.

6 **B. Deposition Testimony on Non-Public Bank Statements of the Retired**  
7 **Professional Football Players for Justice (Exhibit 7)**

8 Exhibit 7 to the Katz Declaration consists of excerpts from the March 5, 2008 deposition  
9 of Margaret Parrish, the designated 30(b)(6) witness of third-party Retired Football Players for  
10 Justice (“RPFPJ”). These excerpts are among those limited portions of the deposition transcript  
11 RPFPJ designated “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” because they  
12 discuss at length and in detail the nature of most, if not all, of the transactions identified in third-  
13 party RPFPJ’s confidential bank statements. (Though not an exhibit to the Katz Declaration, the  
14 non-public bank statements of RPFPJ show all of the deposits, withdrawals and debits transacted  
15 by RPFPJ from its inception through February 2008.)

16 Good cause exists for the sealing of this document. *See Foltz v. State Farm Mut. Auto.*  
17 *Ins. Co.*, 331 F.3d 1122, 1131 n. 4(9th Cir. 2003) (finding documents “contain[ing] trade secrets,  
18 financial information, and confidential information about third parties” satisfy the “good cause”  
19 standard of Rule 26(c)). Public disclosure of these materials would reveal third-party RPFPJ’s  
20 sensitive financial information and history to competing organizations. It would also reveal  
21 RPFPJ’s sensitive financial information to those organizations – like Defendants – against whom  
22 RPFPJ often finds itself when fighting for retired NFL player rights. Plaintiffs respectfully  
23 request that Exhibits 29 and 35 be filed under seal.

24 It is worth noting that in Defendants’ recent Opposition to Plaintiffs’ April 2, 2008  
25 Miscellaneous Administrative Request to file documents under seal, Defendants did not object to  
26 the filing under seal of excerpts identical to those in Exhibit 7 of the Katz Declaration.

27 **C. Private E-Mail Communications Involving Third Parties**

28 Exhibit 10 to the Katz Declaration is a series of e-mail communications sent to and from

1 various third party individuals, none of whom are parties and all of whom have no direct  
2 involvement in this case. Each of these e-mails is personal in nature. The retired NFL players  
3 who received and sent these e-mails had a reasonable expectation of privacy in them and could  
4 not have expected them to become public. Public disclosure of these e-mails could violate these  
5 individuals' right to privacy. These e-mails also include the e-mail addresses of many well-  
6 known retired players, the disclosure of which could result in the sending of unwanted and  
7 harassing e-mail messages from members of the public.

### 8 **III. CONCLUSION**

9 For the reasons given above, Plaintiffs respectfully request that an unredacted version of  
10 their Reply Brief and Exhibits 7, 10, 12 and 14 the Katz Declaration be filed under seal.  
11

12  
13 Dated: April 4, 2008

MANATT, PHELPS & PHILLIPS, LLP

14 By: /s/ Ryan S. Hilbert

15 Ronald S. Katz (SBN 085713)  
16 Ryan S. Hilbert (SBN 210549)  
17 Noel S. Cohen (SBN 219645)  
18 MANATT, PHELPS & PHILLIPS, LLP  
19 1001 Page Mill Road, Building 2  
20 Palo Alto, CA 94304-1006  
21 Telephone: (650) 812-1300  
22 Facsimile: (650) 213-0260  
23 *Attorneys for Plaintiffs*

24  
25  
26  
27  
28  
Lewis T. LeClair, Esq.  
Jill Adler, Esq.  
McKOOOL SMITH, P.C.  
300 Crescent Court  
Suite 1500  
Dallas, TX 75201  
214-978-4984  
214-978-4044 (fax)