

**Exhibit 9**  
**to the**  
**Declaration of Ronald Katz in Further Support of**  
**Plaintiffs' Motion for Class Certification**

March 12, 2008

Client-Matter: 29749-060

**VIA ELECTRONIC MAIL**

Jeffrey Kessler, Esq.  
Dewey & LeBoeuf LLP  
1301 Avenue of the Americas  
New York, NY 10019-6092

**Re: Bernard Paul Parrish, et al. v. NFLPA and Players Inc, Case No. C07-0943 WHA**

Dear Mr. Kessler:

I have now had the opportunity to review Mr. Adderley's deposition transcript, and I therefore request that you withdraw certain lines of questioning posed to Mr. Adderley because they are, among other things, improper and oppressive. As you are aware, a deposition should not be "conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses the deponent or party." Fed. R. Civ. Proc. 30(d)(3)(A). Yet, the questions cited below (and the atmosphere they generated) were abusive and should be withdrawn.

**Recommendation of a Settlement Offer**

In conjunction with the February 6, 2008 Mandatory Settlement Conference, I sent you a letter (attached as Exhibit A) on January 31, 2008 which specifically requested permission to advise Mr. Adderley of my settlement recommendation. Specifically, my letter stated as follows:

Although we are prepared to recommend the above to Mr. Adderley, we have not yet done so because doing so risks disclosing information to him that you have designated to be confidential from him. Please advise if you will permit us to make this recommendation to him in order to facilitate the settlement process.

Despite never responding to my letter, you berated Mr. Adderley for not knowing the settlement number that counsel wanted to recommend to him. [Adderley Deposition, 280:5-284:13.]<sup>1</sup> When I informed you of this fact, you then attacked both counsel and Mr. Adderley over this issue, which was a problem of your own making. The majority of this harassing exchange is as follows:

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<sup>1</sup> All excerpts from the Adderley Deposition referenced herein are attached as Exhibit B.

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- Q. Okay. Well, but you didn't get -- they didn't tell you what they were asking for?
- A. It was part of the confidential or part of the blackout, whatever this is.
- Q. Let me ask you this, sir. They can't give you confidential information of the union of Players, Inc., correct?
- A. I don't know whether they can or not.
- Q. But what's to stop them from telling you how much money they want to ask for as a settlement demand?
- A: Here's the attorney here. Ask him. I don't know.
- Q. So he refused to tell you?
- A. He said it was confidential.

.....

Mr. Katz: This is quite objectionable for you to designate all this material confidential and then to ask questions impugning the integrity of the people who kept it confidential.

Mr. Kessler: You raised this issue of the settlement demand and frankly, I am shocked and stunned that a settlement demand was made. It was not confidential for you to tell your client and discuss with a class representative in advance how much money you were going to ask for in advance. I would not be the one protesting, if I were you, about this subject.

Mr. Katz: In fact, Mr. Kessler, a demand was not made. What was told to the settlement conference judge was that this was what we would recommend, but we were prohibited from conveying that information by the protective order and we thought that was a problem.

Mr. Kessler: You think the protective order, sir, prohibits you from saying what demand you're going to recommend? Not the underlying information? You think that's prohibited?

Mr. Katz: I think it's prohibited for me to take information, to come up with a number, based on information that you have designated, and I might say over-designated, to be confidential, and convey that to my clients and I told that to Judge Larson.

As you are undoubtedly aware, most documents produced in this case contain confidentiality designations. We respected your clients' designations by not informing our client of our recommended settlement offer that came solely from such documents. Criticizing Mr. Adderley for a situation that you created, and of which my January 31, 2008 letter expressly informed you, constitutes conducting a deposition in bad faith in violation of Fed. R. Civ. Proc. 30(d)(3)(A).

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### **Discovery is Served, Not Filed**

On several occasions, you asked Mr. Adderley whether he had seen various discovery documents before they were "filed." [Adderley Deposition, 99:4-100:3; 100:18-19, 160:5-17.] As you know, discovery documents are served, not "filed," which renders this entire confusing line of questioning meaningless. As such, these questions should be formally withdrawn.

### **The Complaints**

You made a number of mischaracterizations to Mr. Adderley. For instance, you informed Mr. Adderley that he had testified that he had not seen the First Amended Complaint before he "spoke" to any of his lawyers. [*Id.*, 244:22-245:17.] In fact, the operative word in your earlier question was "meet," not "spoke." [*Id.*, 22:5-8.]

Additionally, during the course of the deposition it became abundantly clear that Mr. Adderley was confused about your use of the various versions of the partial complaints you showed him. This confusion was legitimate for a variety of reasons.

First, you showed him complaints without exhibits, and you refused to mark these complaints as exhibits to the deposition so it would not be obvious on the record what you did (I later numbered the incomplete documents you used, i.e., Exhibits 179 and 180).

Second, you represented that those unmarked incomplete documents were "court documents." [*Id.*, 72:6-8.]

Third, Mr. Adderley testified on the record that legal documents have a certain similarity to him (*Id.*, 307:5-308:12), and that he saw drafts of and approved these documents. [*Id.*, 181:11-14, 182:11-19, 199:16-201:24, 212:14-213:4, 299:3-8.] This confusion was evident when he said in frustration: "How could I acknowledge or get the thing [lawsuit] going without speaking to them [my lawyers]?" [*Id.*, 247:11-13.]. To alleviate what was becoming extremely abusive, I advised you that I would show you redacted communications which made clear the obvious: that he had been sent all draft complaints in advance of filing for his comment and approval. [*Id.*, 305:23-306:19.] Instead of accepting that reasonable offer,<sup>2</sup> which would have satisfied any legitimate objective you had, you simply created more confusion:

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<sup>2</sup> Attached hereto as Exhibits C and D are examples of redacted emails from me to Mr. Adderley demonstrating that I sent him the initial Complaint and the most recent complaint (the Third Amended Complaint) for his review *before* filing. The Third Amended Complaint was sent to him in a highly redacted form necessitated by your clients' designations of confidentiality. These emails are cover emails only, and are given to you without waiver of any privilege.

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Mr. Katz: You are confusing him. You are saying that he said it was about --  
Mr. Kessler: I don't want to speak. You're coaching him.  
Mr. Katz: Let me finish. Mr. Kessler, I can document for the record, many,  
many communications by phone records and by e-mail and by mail  
with Mr. Adderley before this complaint was filed. That's the truth.  
Mr. Kessler: If you'd like to go under oath I'll take your deposition but otherwise  
I don't think that's relevant for you to offer your testimony, sir.  
Mr. Katz: I think that you have confused the witness. And his testimony is out  
there. And it can be documented.

[*Id.*, 305:23-306:19.]

This behavior is unacceptable and violates, among other things, Fed. R. Civ. Proc.  
30(d)(3)(A). If you are not willing to withdraw each line of questioning referenced above, please  
advise when this week you are available to meet and confer on these issues.

Very truly yours,

Ronald S. Katz /RSK

Ronald S. Katz

# Exhibit A

January 29, 2008

Client-Matter: 29749-060

**BY E-MAIL & FACSIMILE**

Jeffrey Kessler, Esq.  
Dewey & LeBoeuf LLP  
1301 Avenue of the Americas  
New York, NY 10019-6092

**Re: Bernard Paul Parrish, et al. v. National Football League Players Association  
and Players Inc, Case No. C07-0943 WHA**

Dear Mr. Kessler

This is the demand letter required by paragraph 7 of Judge Larson's October 19, 2007 Settlement Conference Order. The theories for recovery and the supporting facts have been set out in Plaintiffs' motion for leave to file a Third Amended Complaint, which Judge Alsup granted. This communication and all related communications are subject to all of the protections afforded by the law to settlement communications.

Re damages, for the Retired Member Class represented by Mr. Parrish, the theory is straightforward: \$50 plus interest for each year of dues paid by the class members since February 14, 2003. Because of Defendants' delay tactics, we do not yet have the number of members in the class, but you know that number. When you let us know it, we will quantify this claim. To show good faith, we have recommended to Mr. Parrish not to consider punitive damages at this juncture, even though we believe an award of such damages is well within the realm of possibility.

Re the GLA Class represented by Mr. Adderley, based on the incomplete discovery to date, our current best estimate, which is subject to change as we obtain more facts and expert input, is that that claim approximates \_\_\_\_\_ which includes \_\_\_\_\_

**REDACTED**

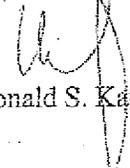
From that \_\_\_\_\_  
we would be willing to recommend to Mr. Adderley that the GLA Class settle for \_\_\_\_\_  
which represents a deduction of the approximately \_\_\_\_\_ more in fees likely  
to be expended in this case plus \_\_\_\_\_ as a show of good faith. As a further showing of \_\_\_\_\_

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good faith, we would recommend to Mr. Adderley not to consider punitive damages at this point, even though we believe that the award of such damages is well within the realm of possibility.

Although we are prepared to recommend the above to Mr. Adderley, we have not yet done so because doing so risks disclosing information to him that you have designated to be confidential from him. Please advise if you will permit us to make this recommendation to him in order to facilitate the settlement process.

Very truly yours,



Ronald S. Katz

RSK:kmr

cc: Lewis LeClair, Esq.

20195936.1

# Exhibit B

Herbert Anthony Adderley

1 IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
2 SAN FRANCISCO DIVISION

3 BERNARD PAUL PARRISH, : CIVIL ACTION  
HERBERT ANTHONY :  
4 ADDERLEY, and WALTER :  
ROBERTS, III, on :  
5 behalf of themselves :  
and all others :  
6 similarly situated, :  
Plaintiffs :  
7 :  
V. :  
8 :  
NATIONAL FOOTBALL :  
9 LEAGUE PLAYERS :  
ASSOCIATION; a :  
10 Virginia Corporation :  
and NATIONAL FOOTBALL :  
11 LEAGUE PLAYERS, INC., :  
d/b/a PLAYERS, INC., :  
12 a Virginia corporation:  
Defendants : NO. C07-0943-WHA

**COPY**

13 - - -  
14 February 20, 2008  
15 - - -  
16 Videotape deposition of HERBERT  
ANTHONY ADDERLEY, held in the offices of  
17 Blank Rome, One Logan Square, 9th Floor,  
Philadelphia, Pennsylvania 19103,  
18 commencing at 8:30 a.m. on the above  
date, before Teresa M. Beaver, a  
19 Federally-Approved Registered  
Professional Reporter and a Notary Public  
20 in the Commonwealth of Pennsylvania.

21  
22  
23  
24 JOB NO. 200714

1 did you meet with Mr. Parrish or other  
2 people to learn more about your being in  
3 this lawsuit?

4 A. No.

5 Q. Did you ever meet with the  
6 lawyers in this case before the case was  
7 started?

8 A. No.

9 Q. Did anyone ever explain to  
10 you, before the case was started, what it  
11 meant to be a class representative?

12 A. Very, very briefly explained  
13 that I would be representing a group of  
14 retired players and their numbers  
15 changed. They started at 3500 and went  
16 to 2900 and down to 2500. It was three  
17 different numbers of the amount of  
18 plaintiffs that we would be representing.

19 Q. Do you know how many you  
20 think you represent today?

21 A. I think 2500.

22 Q. Have you ever learned -- do  
23 you know anything about the changes that  
24 you've made in this case, in terms of the

1 2007.

2                   You don't need to give it an  
3 exhibit.

4                   MR. KATZ: You're not  
5 marking this?

6                   MR. KESSLER: I don't think  
7 it needs to be marked as an  
8 exhibit. It's a court document.

9 BY MR. KESSLER:

10           Q.     Mr. Adderley, I take it you  
11 never saw this document before; correct?

12           A.     I've seen this.

13           Q.     When did you first see it?

14           A.     I don't know exactly when;  
15 because so many documents have come to  
16 me.

17                   But I do remember seeing  
18 this.

19           Q.     You didn't see it before it  
20 was filed, right?

21           A.     No.

22           Q.     Okay. Now, did you know  
23 that in this First Amended Complaint that  
24 was filed, you did not make any claim for

1 use of your GLA rights?

2 A. No.

3 MR. KATZ: Object.

4 MR. KESSLER: Let me show  
5 you next a copy of Plaintiff's  
6 Responses to Defendant's First Set  
7 of Requests for Admissions.

8 MR. KATZ: Are you marking  
9 this?

10 MR. KESSLER: No. Again, I  
11 think it's a court document. I  
12 don't think we need it as an  
13 exhibit.

14 BY MR. KESSLER:

15 Q. Mr. Adderley, have you ever  
16 seen this document before?

17 A. Yes.

18 Q. When did you first see this  
19 document?

20 A. It was mailed to me some  
21 time ago. I'm not exactly sure when.

22 Q. After it was filed?

23 A. Yes.

24 Q. Did you ever discuss the

1 answers in this document with anyone  
2 before it was filed?

3 A. No.

4 MR. KATZ: I'm going to  
5 object to that.

6 BY MR. KESSLER:

7 Q. Let me show you the Request  
8 Number 4.

9 Request for Admission 4 says  
10 that "admit that Adderley did not know  
11 the specific terms of any GLA that he  
12 signed that was in effect within the  
13 statute of limitations until defendants  
14 could do such GLAs to Adderley in this  
15 action."

16 Do you see that, sir?

17 A. Yes.

18 Q. And the answer your counsel  
19 filed is "denied."

20 Do you see that?

21 A. Yes.

22 Q. Please tell me, prior to  
23 filing this action, and receiving the  
24 copies of the GLAs produced by defendants

1 Q. Did you review these  
2 Objections and Responses to Defendant's  
3 First Set of Interrogatories?

4 A. Yes.

5 Q. And after that, did you --  
6 did you review them before they were  
7 filed?

8 A. No.

9 Q. So, these were filed without  
10 your ever seeing them?

11 A. I knew about them because we  
12 had discussed it on the phone and I knew  
13 what the contest was going to be.

14 Q. You only read them and  
15 verified them after they were filed;  
16 right?

17 A. Yes.

18 Q. And that is your signature  
19 on the verification?

20 A. Yes, it is.

21 Q. I'd like to direct your  
22 attention to response to Interrogatory  
23 number one.

24 There's a question here,

1 that have to do with this case?

2 A. Nothing at all to do with  
3 the lawsuit.

4 Q. And you've also been an  
5 advocate for disability; is that right?

6 A. Yes.

7 Q. And what, if anything, does  
8 that have to do with this case?

9 A. Not a thing with the  
10 lawsuit.

11 Q. Why did you -- did you  
12 authorize your lawyers to bring suit in  
13 this case?

14 A. Yes.

15 Q. And why did you do that?

16 A. Because I needed legal  
17 advice and legal help to do it. Couldn't  
18 do it without it.

19 Q. And what's your  
20 motivation -- was it your independent  
21 decision to do that?

22 A. Yes, after Bernie Parrish  
23 called and told me about it, it was my  
24 independent decision to be involved.

Herbert Anthony Adderley

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1 Q. Did you do it because anyone  
2 else told you to do it?

3 A. No.

4 Q. Not Mr. Parrish?

5 A. No.

6 Q. Not me?

7 A. No.

8 Q. It was your -- it was Herb  
9 Adderley's decision?

10 A. Yes, 100 percent.

11 Q. And before you brought the  
12 case, did your attorneys review all the  
13 facts and legal theories, et cetera, with  
14 you?

15 A. Yes.

16 Q. And were you satisfied that  
17 that was a case that you wanted to  
18 associate your name with?

19 A. Yes.

20 Q. And has the theory of the  
21 case changed over time?

22 A. Yes.

23 Q. Okay. And do you have an  
24 understanding of why it changed over

1 next document that I'm going to ask you  
2 about actually hasn't been numbered. Let  
3 me take a look at this.

4                   The next document is the --  
5 is a document that has been not been  
6 marked and I'm going to mark as the first  
7 Amended Complaint. Mr. Kessler, you just  
8 showed it to him.

9                   MR. KESSLER: Okay. If you  
10 want to give it an exhibit number.

11                   - - - -  
12                   (Whereupon, the exhibit was  
13 marked 179 for identification.)

14                   - - - -  
15 BY MR. KATZ:

16                   Q. Did you discuss your first  
17 amended complaint with your counsel  
18 before you -- before it was filed?

19                   A. Yes.

20                   Q. And were you satisfied that  
21 it set out the facts and the law as you  
22 understood it?

23                   A. Yes.

24                   Q. And that was before it was

1 filed?

2 A. Yes.

3 Q. And the document itself,  
4 actually had a number of different  
5 exhibits to it; didn't it?

6 A. Yes.

7 Q. Did the document you see  
8 have exhibits?

9 A. Yes.

10 Q. And were there a number of  
11 drafts of this document?

12 A. Yes.

13 Q. Were they all sent to you?

14 A. Yes.

15 Q. And you discussed them with  
16 your counsel?

17 A. Yes.

18 Q. I'd like to mark as the next  
19 exhibit, let's make it 180, and we'll  
20 mark the Second Amended Complaint, which  
21 you had showed him, Mr. Kessler, but you  
22 had not marked.

23

24 (Whereupon, the exhibit was

1 marked 180 for identification.)

2 - - -

3 BY MR. KATZ:

4 Q. Now, you understand that  
5 the -- do you have an understanding that  
6 the judge required a Second Amended  
7 Complaint to be filed?

8 A. Yes.

9 Q. And did you review that --  
10 without telling me the substance of any  
11 conversation -- did you review that  
12 complaint with your counsel --

13 A. Yes.

14 Q. -- before it was filed. And  
15 did you satisfy yourself that it was  
16 legally and factually correct?

17 A. Yes.

18 Q. And did you see a number of  
19 drafts of that document?

20 A. Yes, I did.

21 Q. And did the document that  
22 you saw before it was filed have exhibits  
23 to it?

24 A. Yes.

1 front of you, Mr. Kessler asked you about  
2 Line 17, well, Paragraph 57, which refers  
3 to a letter from Mr. Allen to NFLPA,  
4 retired NFLPA members, soliciting them to  
5 join or renew their membership in the  
6 NFLPA and it says Parrish and Adderley  
7 received this fall, 2003 letter.

8                   Did you receive that letter,  
9 sir?

10           A.       Yes.

11           Q.       Do you know whether you  
12 retained a copy of that, sir?

13           A.       No, I didn't.

14           Q.       Now, with respect to Exhibit  
15 169, this redacted version, did you,  
16 again, without asking you what the  
17 substance of the discussion, did you  
18 review this complaint with your counsel  
19 before it was filed?

20           A.       Yes.

21           Q.       And were you satisfied  
22 before it was filed that it was accurate,  
23 factually and legally, as far as you  
24 could understand it?

1 A. Yes.

2 Q. Did you understand that  
3 there was a new theory being proposed?

4 A. Yes.

5 Q. And did -- what  
6 relationship, if any, did that new theory  
7 have to the judge's orders as far as you  
8 know?

9 A. Repeat that, please.

10 Q. Well, the judge had  
11 dismissed the Second Amended Complaint?

12 A. Right.

13 Q. And did the new theory, in  
14 your mind, have anything to do with the  
15 judge's dismissal of the previous theory?

16 A. Yes.

17 Q. And were you just following  
18 the judge's order, as far as you  
19 understood?

20 MR. KESSLER: Objection.

21 Leading.

22 MR. KATZ: You may answer.

23 THE WITNESS: Yes.

24 BY MR. KATZ:

1 everything that was in the  
2 complaints but I didn't see them  
3 at that particular time.

4 BY MR. KESSLER:

5 Q. I want to be clear. So, you  
6 never saw the First Amended Complaint  
7 before it was filed; right?

8 A. I knew what was in there but  
9 I never saw it.

10 Q. You never saw it and you  
11 never saw the Second Amended Complaint  
12 before it was filed; correct?

13 A. That's correct.

14 Q. And you never saw the Third  
15 Amended Complaint before it was filed;  
16 correct?

17 A. I knew what was in there.  
18 It was discussed.

19 Q. You never saw it, sir;  
20 correct?

21 A. Correct.

22 Q. And it is also true, this  
23 morning you testified you never spoke to  
24 the lawyers before the case was filed;

1 right?

2 MR. KATZ: Object.

3 THE WITNESS: That I never  
4 spoke to the lawyers before the  
5 case was filed? About what?

6 BY MR. KESSLER:

7 Q. Yes. This morning I asked  
8 you did you speak to the lawyers.

9 Let me --

10 MR. KATZ: You didn't ask  
11 him that this morning,  
12 Mr. Kessler. That's just not  
13 true.

14 MR. KESSLER: Let's go back  
15 to live note. Can you get back?

16 MR. KATZ: You asked him  
17 whether he ever met.

18 BY MR. KESSLER:

19 Q. I did asked you if you ever  
20 met with the lawyers in this case before  
21 this case was started and you said no?

22 A. Correct.

23 Q. And you never met with them?

24 A. Correct.

1 order for them to be authorized.

2 Q. So, when did you speak to  
3 them, sir?

4 A. Well, this is before  
5 anything was filed.

6 Q. You just told me --

7 A. To say hello.

8 Q. You just told me 30 seconds  
9 ago you didn't speak to them; right? 30  
10 seconds ago; right?

11 A. How could I acknowledge or  
12 get the thing going without speaking to  
13 them.

14 Q. Well, sir, it's your  
15 testimony, 30 seconds ago, did you tell  
16 me you didn't speak to them before filing  
17 the lawsuit?

18 A. If that's what the record  
19 says.

20 MR. KATZ: Objection. The  
21 record speaks for itself.

22 BY MR. KESSLER:

23 Q. I'll represent that you just  
24 said that. Sir, do you have a problem

1 you any information?

2 MR. KATZ: Object.

3 THE WITNESS: No.

4 BY MR. KESSLER:

5 Q. Okay. Now, you -- the  
6 attorney asked you about the settlement  
7 conference that you didn't know about  
8 information that led to the settlement  
9 amount that was discussed.

10 Do you recall that being  
11 asked about that?

12 A. About the settlement?

13 Q. At the recent settlement  
14 conference?

15 A. Right.

16 Q. Did you know how much you  
17 were asking for in that settlement  
18 conference?

19 A. No.

20 Q. Okay. The lawyers never  
21 told you what settlement demand they were  
22 making?

23 A. No.

24 Q. So, as class -- as a class

1 representative, you didn't want to  
2 approve the amount of money that was  
3 being asked for?

4 A. Yes.

5 Q. Okay. Well, but you didn't  
6 get -- they didn't tell you what they  
7 were asking for?

8 A. It was part of the  
9 confidential or part of the blackout,  
10 whatever this is.

11 Q. Let me ask you this, sir.

12 They can't give you  
13 confidential information of the union of  
14 Players, Inc., correct?

15 A. I don't know whether they  
16 can or not.

17 Q. But what's to stop them from  
18 telling you how much money they want to  
19 ask for as a settlement demand?

20 MR. KATZ: Object.

21 THE WITNESS: Here's the  
22 attorney here. Ask him. I don't  
23 know.

24 BY MR. KESSLER:

1 Q. So he refused to tell you?

2 A. He said it was confidential.

3 Q. And he didn't tell

4 Mr. Parish how much the settlement demand  
5 was either?

6 A. I don't know what he told  
7 Mr. Parrish.

8 Q. He didn't tell you?

9 A. He didn't tell me.

10 MR. KATZ: This is quite  
11 objectionable for you to designate  
12 all this material confidential and  
13 then to ask questions impugning  
14 the integrity of the people who  
15 kept it confidential.

16 MR. KESSLER: You raised  
17 this issue of the settlement  
18 demand and frankly, I am shocked  
19 and stunned that a settlement  
20 demand was made. It was not  
21 confidential for you to tell your  
22 client and discuss with a class  
23 representative in advance how much  
24 money you were going to ask for in

1 advance. I would not be the one  
2 protesting, if I were you, about  
3 this subject.

4 MR. KATZ: In fact,  
5 Mr. Kessler, a demand was not  
6 made. What was told to the  
7 settlement conference judge was  
8 that this was what we would  
9 recommend, but we were prohibited  
10 from conveying that information by  
11 the protective order and we  
12 thought that was a problem.

13 MR. KESSLER: You think the  
14 protective order, sir, prohibits  
15 you from saying what demand you're  
16 going to recommend? Not the  
17 underlying information? You think  
18 that's prohibited?

19 MR. KATZ: I think it's  
20 prohibited for me to take  
21 information, to come up with a  
22 number, based on information that  
23 you have designated, and I might  
24 say overdesignated, to be

1 confidential, and convey that to  
2 my clients and I told that to  
3 Judge Larson.

4 MR. KESSLER: Okay.

5 MR. KATZ: And I wrote that  
6 to Judge Larson.

7 MR. KESSLER: Okay. We will  
8 respectfully disagree as to what  
9 your obligations are and as to  
10 what's confidential and not  
11 confidential.

12 In any event, I have no  
13 further questions.

14 MR. KATZ: I have a few  
15 questions, but I want to take a  
16 short break first.

17 THE VIDEOGRAPHER: The time  
18 is 2:55 p.m. Off the record.

19 - - -

20 (Whereupon, there was a  
21 recess.)

22 - - -

23 THE VIDEOGRAPHER: The time  
24 is 3:07 p.m. We are back on the

1 lawsuit?

2 A. Yes.

3 Q. Why did you tell Mr. Kessler  
4 a few moments ago that you had not spoken  
5 with a lawyer before you filed?

6 A. I wasn't sure what he was  
7 talking about, what document he was  
8 talking about.

9 MR. KATZ: I have nothing  
10 further.

11 - - -  
12 EXAMINATION

13 - - -

14 BY MR. KESSLER:

15 Q. I have more questions.

16 Mr. Adderley, you're changing -- I'm  
17 saying this with all due respect --  
18 you're changing your testimony every 30  
19 seconds on this issue.

20 I'm going to ask you again.  
21 You've testified now twice under oath, at  
22 least twice, maybe three times, that  
23 before this case was filed, you don't  
24 remember any specific contents of any

1 deposition. You are  
2 mischaracterizing to him what he  
3 said.

4 MR. KESSLER: Sir, this  
5 witness has changed his testimony  
6 so many times under oath, within a  
7 space of, I don't know, 15, 20  
8 minutes, the judge is going to be  
9 appalled by this witness's  
10 testimony.

11 You want to terminate this  
12 deposition, go forward.

13 I have a feeling here  
14 untruthful testimony is being  
15 solicited by you, because this  
16 witness keeps changing. I've  
17 never seen, as long as I've been  
18 practicing, a witness change his  
19 testimony under oath so many times  
20 in the same deposition.

21 You want to terminate, let's  
22 terminate. It's your decision.

23 MR. KATZ: You are confusing  
24 him. You are saying that he said

1 it was about --

2 MR. KESSLER: I don't want  
3 to speak. You're coaching him.

4 MR. KATZ: Let me finish.  
5 Mr. Kessler, I can document for  
6 the record, many, many  
7 communications by phone records  
8 and by e-mail and by mail with  
9 Mr. Adderley before this complaint  
10 was filed. That's the truth.

11 MR. KESSLER: If you'd like  
12 to go under oath I'll take your  
13 deposition but otherwise I don't  
14 think that's relevant for you to  
15 offer your testimony, sir.

16 MR. KATZ: I think that you  
17 have confused the witness. And  
18 his testimony is out there.

19 And it can be documented.

20 BY MR. KESSLER:

21 Q. Mr. Adderley, the truth,  
22 isn't it, sir, as you're sitting here  
23 today, you don't remember what you knew  
24 or you didn't know before the complaint

1 was filed; right? You just don't

2 remember?

3 A. Some things I do, some  
4 things I don't.

5 Q. But one thing you do  
6 remember is you know you didn't see the  
7 complaint before it was filed, any  
8 complaint; right?

9 MR. KATZ: Object.

10 THE WITNESS: I saw  
11 documents but I didn't know  
12 whether it was a lawsuit or what.

13 BY MR. KESSLER:

14 Q. Did it look like --  
15 subsequently you've seen the complaints  
16 in this case; right?

17 A. Yes.

18 Q. Did it look like one of  
19 those complaints?

20 A. Yes.

21 Q. It did. What did it look  
22 like?

23 A. Looked like legal papers to  
24 me.

1 Q. I'm not asking you if it was  
2 a legal paper, sir. Do you recall here  
3 now what at all it looked like?

4 MR. KATZ: Object.

5 THE WITNESS: It looked like  
6 the same papers we're looking at  
7 here now.

8 BY MR. KESSLER:

9 Q. We're looking at a lot of  
10 papers here.

11 A. That's why I was confused.  
12 We're looking at a lot of papers.

13 Q. You don't know which paper  
14 you saw or no? Do you?

15 MR. KATZ: Object.

16 THE WITNESS: The first  
17 amendment, second amendment, I saw  
18 them both.

19 BY MR. KESSLER:

20 Q. I'm not asking you that.  
21 I'm asking you, do you know if prior to  
22 the case being filed, you reviewed  
23 anything that was a draft of the actual  
24 complaint filed?

1                   C E R T I F I C A T E

2

3                   I hereby certify that the  
4 proceedings and evidence noted are  
5 contained fully and accurately in the  
6 notes taken by me on the deposition of  
7 the above matter, and that this is a  
8 correct transcript of the same.

9

10

11

12

13

*Teresa M. Beaver*

14

15

Teresa M. Beaver, RPR

16

17

18

(The foregoing certification of  
19 this transcript does not apply to any  
20 reproduction of the same by any means,  
21 unless under the direct control and/or  
22 supervision of the certifying shorthand  
23 reporter.)

24

# Exhibit C

**Hilbert, Ryan**

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**From:** Katz, Ron  
**Sent:** Wednesday, September 26, 2007 11:16 AM  
**To:** Bernard Parrish (bpp12@yahoo.com); Herb Adderley (HerbAdderley26@aol.com); walt272002@yahoo.com  
**Cc:**  
**Subject:** RE: Parrish v. NFLPA -- Redacted Complaint  
**Attachments:** 20070926103104181.PDF; 20070925205329469.PDF; 20070925203213850.PDF

Attached is a better, more current copy of the public version of the Third Amended Complaint plus the non-confidential exhibits. We are faxing the complaint to Bernie per his request & we will FedEx complaint plus exhibits to all of you.

# Exhibit D

Hilbert, Ryan

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**From:** Katz, Ron  
**Sent:** Friday, February 09, 2007 7:37 PM  
**To:** 'Bernard Parrish'; 'HerbAdderley26@aol.com'  
**Cc:**  
**Subject:** FW: NFLPA Cross-Action Complaint.DOC  
**Attachments:** Parrish.Exhibit A.pdf; Parrish Exhibit B.pdf; Exhibit C.pdf; Parrish Exhibit D.pdf; Parrish Exhibit E.pdf; Parrish Exhibit F.pdf; Parrish\_Adderley Complaint.DOC

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Team--

Attached is a draft of the complaint with the exhibits for your review/comments/edits. If you all are available, I will send a conference call number for a call at 4pm Eastern, 3pm Central & 1 pm Pacific time on Monday. Please let me know if that is not a convenient time.

Please keep this highly confidential.

Thanks,

Ron

3/12/2008

F.x.D