

# **EXHIBIT B**

April 4, 2008

**VIA EMAIL (dfeher@dl.com) and FACSIMILE (212-259-6333)**

David G. Feher, Esq.  
Dewey & LeBoeuf LLP  
1301 Avenue of the Americas  
New York, New York 10019-6092

**Re: *Parrish v. National Football League Players Association*  
Case No. C07-0943 WHA**

Dear David:

With all due respect, your current position stated in the email you sent me yesterday at 8:30 a.m. ("Email") is inconsistent in several ways. First, Jason Clark was explicitly asked this past Wednesday in the meet-and-confer by Noel Cohen whether the meet-and-confer process was concluded on the subject of reciprocal declarations. Jason Clark's answer was "Yes," which is not subject to any interpretation except what it means. Indeed, you confirmed the position taken by Jason Clark yesterday in your Email, in which you stated that "...a declaration on this subject is neither necessary or appropriate." The issue of reciprocal declarations was set out clearly in Noel Cohen's March 24, 2008 letter to Jason Clark, which is attached as Exhibit A.

You stated that a declaration on this subject from Defendants is neither necessary or appropriate despite the fact that Defendants have taken the position that Mr. Adderley should sign a declaration (which he has done) because of one inconsequential and irrelevant email that has not yet been found. Yet Defendants refuse to meet the same standard despite the much more serious problems with Defendants' document production listed below:

1) Despite providing Joel Linzner of Electronic Arts a so-called "Addendum" to a PLAYERS INC/Electronic Arts agreement to use in his Declaration on Defendants' behalf, Defendants have not produced the agreement to which this "Addendum" was allegedly added. Plaintiffs have repeatedly requested this agreement, including during the meet-and-confer call held on March 6, 2008. Using the "Addendum" and not producing the agreement to which it was allegedly added raises serious questions about the diligence and integrity of Defendants' document production.

David G. Feher, Esq.  
April 4, 2008  
Page 2

2) According to Mr. Taub's April 2, 2008 letter containing the information required by Paragraph 14 of Judge Alsup's Standing Order, Gene Upshaw is not listed as a person who searched for documents. Because Mr. Upshaw is the highest ranking officer of both Defendants, this is completely inadequate.

3) Similarly, according to Mr. Taub's letter, Andrew Feffer was not listed as a person who searched for documents despite the fact that he has signed at least two Declarations in support of Defendants in this case. This is also completely inadequate.

4) Further according to Mr. Taub's letter, the NFLPA's San Francisco office is not a location that Defendants searched for documents. Given Defendant's position on Judge Alsup's jurisdiction over this case, such lack of diligence is completely unacceptable.

5) Mr. Taub's letter does not mention searching for emails of former employees like Howard Skall even though Plaintiffs have explicitly requested this information, including this past Wednesday on the meet-and-confer call. Nor does Mr. Taub's letter mention searching any hard copy files of all former employees who might have information relevant to this case, including but not limited to Mr. Skall and Dawn Ridley.

6) Exhibit 3 to Mr. Taub's letter is completely insufficient in that it makes no mention of "the specific source" of each particular document (e.g., "personal files of Kelly Stubick", "E-Mail files of Andre Collins", etc.) and instead relies only on broad general categories of sources. Defendants' refusal to provide specific information as required by Judge Alsup's rules raises serious concerns about the diligence and integrity of Defendants' search for documents. So too does the fact that some of the sources Defendants now identify for particular documents are different from the sources listed on Defendants' September 5, 2007 submission (e.g., PI000003-PI000021 were previously attributed to the NFLPA Legal Department and now are attributed to the Groom Law Group).

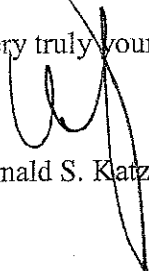
7) Mr. Taub's letter does not make clear what emails (such as emails of former employees or emails sent by Blackberry-type devices) are included in the Electronic Data Base, the E-Mail Storage Vault and the Shared Storage Server of NFLPA/Players Inc.

Because we believe that declarations from Defendants were required by the above serious and fundamental problems casting doubt on the diligence and integrity of Defendants' search for documents, and because Mr. Clark expressly concluded the meet-and-confer on that subject

David G. Feher, Esq.  
April 4, 2008  
Page 3

yesterday (which you confirmed in your Email), please be advised that we will be seeking relief from Judge Alsup on this matter.

Very truly yours,

A handwritten signature in black ink, appearing to be 'RSK', written over the typed name 'Ronald S. Katz'.

Ronald S. Katz

RSK:kmr

# EXHIBIT A

EXHIBIT A

March 24, 2008

Client-Matter: 29749-060

VIA ELECTRONIC MAIL

Jason Clark, Esq.  
Dewey & LeBouf LLP  
1301 Avenue of the Americas  
New York, NY 10019-6092

**Re: Bernard Paul Parrish, et al. v. National Football League Players  
Incorporated d/b/a Players Inc, Case No. C07-0943 WHA**

Dear Jason:

This responds to your letter dated March 20, 2008. Plaintiffs have now advised Defendants on multiple occasions the steps they have taken to ensure documents are retained in this case. Yet, Defendants now insist on a declaration from Mr. Adderley regarding the steps taken to retain documents. We are amenable to providing such a declaration to mollify your concerns on the condition that Defendants reciprocate with similar declarations from both PLAYERS INC and the NFLPA. We expect these declarations to include, among other things, information specific to the preservation of the PLAYERS INC website (a request we specifically made on February 28, March 1, and March 6, 2007, and to which you agreed on March 7, 2007). This declaration is critical as PLAYERS INC's website has been altered on several occasions in response to the allegations in this lawsuit. We also expect these declarations to include the steps taken to preserve electronic documents, including electronic documents of those individuals who have since left Defendants, as we are concerned with the abnormally small number of emails produced by Defendants. In addition, these declarations should address what electronic sources, if any, Defendants do or did not consider "reasonably accessible" and which sources they have not searched covering which time periods. Finally, the declarations should address the preservation and availability of electronic documents relating to the transition of documents on the "legacy system."

Due to scheduling issues, we cannot provide this declaration on March 28, but can do so on April 2, three business days later. Please confirm by the end of business on March 28 that Defendants will provide their declarations by April 2 as well.

With respect to your request that Defendants comply with Paragraph 14 of Judge Aisup's Order, Plaintiffs will provide this information on April 2, 2008 and expect Defendants to do the same. It is worth noting that Defendants' initial list was woefully deficient and we hereby request that it be revised to comply with the Court's Order. Specifically, and as referenced in

Jason Clark, Esq.  
March 24, 2008  
Page 2

your letter, the list must “set forth in detail each specific source and location searched . . . identify, by name and position, all persons conducting the search and their areas of responsibility.” Defendants’ initial list does not set forth “in detail each specific source and location searched.” Additionally, and not mentioned in your letter, the list must also “describe the specific source for each produced item as well as for each item withheld on a ground of privilege.” Putting aside privileged documents, Defendants’ initial list does not “describe the specific source for each produced item.” Please confirm that Defendants will revise its initial list to conform with all, not a selection of, the requirements of Paragraph 14 of the Court’s Order. If you refuse, as part of the meet and confer process, please provide an explanation for your unwillingness to do so by March 28, 2008. Please also propose a date on which you propose exchanging privilege logs as no party has provided one to date.

Thank you for your anticipated cooperation.

Very truly yours,

Noel S. Cohen  
Manatt, Phelps & Phillips, LLP