

# **EXHIBIT 42**

**Case No. C 07 0943 WHA**

**Parrish v. National Football League Players Association, et al.**

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12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT  
14 SAN FRANCISCO DIVISION

16 BERNARD PAUL PARRISH, HERBERT  
ANTHONY ADDERLEY, and WALTER  
17 ROBERTS III, on behalf of themselves and  
all others similarly situated,

18 Plaintiffs,

20 NATIONAL FOOTBALL LEAGUE  
21 PLAYERS ASSOCIATION, a Virginia  
corporation, and NATIONAL FOOTBALL  
22 LEAGUE PLAYERS INCORPORATED  
d/b/a PLAYERS INC, a Virginia  
23 corporation,

24 Defendants.

CIVIL ACTION NO. C07 0943 WHA

**PLAINTIFFS' RESPONSES AND  
OBJECTIONS TO DEFENDANTS' THIRD  
SET OF INTERROGATORIES**

25 Plaintiffs hereby serve their objections and responses to Defendants' Third Set of  
26 Interrogatories (collectively, the "Interrogatories" and individually, an "Interrogatory"), pursuant  
27 to the Federal Rules of Civil Procedure, as follows:  
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**PRELIMINARY STATEMENT**

The following objections and responses are based upon the information currently known to Plaintiffs, including information ascertained pursuant to Plaintiffs' reasonable inquiry in response to each Interrogatory. Discovery and investigation are on-going and may disclose the existence of additional responsive information. Plaintiffs reserve the right to amend or supplement these responses and objections as additional information is discovered, revealed, recalled or otherwise ascertained. Plaintiffs specifically reserve the right to utilize subsequently discovered information at trial.

**GENERAL OBJECTIONS**

The following General Objections apply to, and are specifically incorporated in, each response to each of the Requests, whether or not expressly stated in each individual response:

1. Plaintiffs object to the Requests to the extent that they seek to impose obligations beyond those set forth in the Federal Rules of Civil Procedure.

2. Plaintiffs object to the definition of the terms "You," "Your" and "Plaintiffs" to the extent that they purport to require the disclosure of information in the possession, custody or control of anyone other than Herbert Anthony Adderley. Plaintiffs further object to the definitions of these terms to the extent that they purport to require the disclosure of information in the possession, custody or control of "attorneys" on the ground and to the extent that such information is protected by the attorney-client privilege, word product doctrine or any other applicable privileges or protections from discovery.

3. Plaintiffs object to the definition of the term "Equal Share Royalty" to the extent that it purports to alter the definition provided by Plaintiffs in their Response to Defendants' Interrogatory No. 8. For purposes of responding to these Interrogatories, Plaintiffs shall interpret

1 "Equal Share Royalty" to have the same meaning as set forth in Plaintiffs' Responses to  
2 Defendants' Interrogatory No. 8.

3 4. Plaintiffs object to the Requests to the extent that they seek privileged information,  
4 including but not limited to information or documents protected by the attorney-client privilege,  
5 the work product doctrine, the joint defense or common interest privilege, the protection afforded  
6 to settlement discussions, any agreement between parties, any court order or any other privilege  
7 or immunity. Insofar as the disclosure of information by Plaintiffs in response to any  
8 Interrogatory may be deemed to be a waiver of any privilege or right, such waiver shall be  
9 deemed to be a limited waiver with respect to that particular information only.  
10

11 5. Plaintiffs object to the Interrogatories to the extent they seek information that is  
12 not relevant to the claim or defense of any party and not reasonably calculated to lead to the  
13 discovery of such information.  
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15 6. Plaintiffs object to the Interrogatories to the extent that they seek information that  
16 is publicly available, has already been furnished to, or is in the possession, custody or control of  
17 Defendants, or to the extent that they seek information already available to Defendants, available  
18 from public records or otherwise in the public domain and available to Defendants.  
19

20 7. Plaintiffs object to the Interrogatories to the extent that they seek information that  
21 is not within Plaintiffs possession, custody or control. Plaintiffs construe each Interrogatory as  
22 requiring it to engage in a reasonable inquiry and base their responses on information that is  
23 known or ascertainable through a reasonable inquiry.

24 8. Plaintiffs responses to the Interrogatories are based on the information available as  
25 of the date hereof, and Plaintiffs reserve the right to supplement and/or amend their responses and  
26 objections if necessary.  
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1 identified on Exhibit B hereto contain language similar to the 2004 and 2005 EA Agreements  
2 with respect to the licensing of retired player rights.

3 **INTERROGATORY NO. 10:**

4 Describe the bases for ADDERLEY's and the putative GLA CLASS's contention that an  
5 "EQUAL SHARE ROYALTY" is an appropriate measure of damages for their breach of contract  
6 claim based upon the ADDERLEY GLA.  
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8 **RESPONSE TO INTERROGATORY NO. 10:**

9 Plaintiffs object to this Interrogatory on the grounds that it calls for a legal conclusion.  
10 Plaintiffs also object to this Interrogatory on the grounds that it calls for expert analysis and  
11 opinion in violation of the Court's December 7, 2007 Order Re-Setting Deadlines, which does not  
12 yet require the disclosure of expert reports. Plaintiffs further object to this Interrogatory to the  
13 extent that it seeks information protected by the attorney-client privilege, the attorney work  
14 product doctrine, or any other applicable evidentiary privilege. Subject to and without waiving  
15 these objections or the General Objections, Plaintiffs respond as follows:  
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17 The construct of the "equal share royalty" is one of the NFLPA's creation. Adderley's  
18 breach of contract claim is based upon the language of the Adderley GLA in which Adderley and  
19 the GLA Class Members licensed to Defendants the right to use their images in group licensing  
20 programs. The Adderley GLA defines group licensing programs as "programs in which a  
21 licensee utilizes a total of six (6) or more present or former NFL player images in conjunction  
22 with or on products that are sold at retail or used as promotional or premium items." The  
23 Adderley GLA further provides that "moneys generated by such licensing of retired player group  
24 rights will be divided between the player and an escrow account for all eligible NFLPA members  
25 who have signed a group licensing authorization form." Defendants admit that "eligible NFLPA  
26 members" means active NFL players only. Defendants received royalties from group licensing  
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1 programs from licenses entered into with at least those licensees identified in response to  
2 Interrogatory No. 9. Defendants admit that royalties from such licenses were deposited into an  
3 escrow account, which is the only escrow account established by Defendants for such royalties,  
4 and paid out to eligible (*i.e.*, active) players on an “equal share” basis. Defendants further admit  
5 that no royalties from such licenses or from the escrow account were paid to any retired players.  
6 Because the escrow account from which active players are paid an equal share royalty is the only  
7 escrow account established “for eligible NFLPA members” who have signed a GLA, pursuant to  
8 the Adderley GLA, Adderley and the GLA Class Members should have shared in the royalties in  
9 the same manner as active players shared in such royalties, *e.g.*, each receiving an “equal share”  
10 of the royalties.  
11

12 **INTERROGATORY NO. 11:**

13  
14 If ADDERLEY’s and the putative GLA CLASS’s damages claim is based – in whole or in  
15 part – on any contract(s) other than the ADDERLEY GLA, then identify any such contract(s), and  
16 describe how an “EQUAL SHARE ROYALTY” would be an appropriate measure of damages  
17 based upon a purported breach of such contract(s).

18 **RESPONSE TO INTERROGATORY NO. 11:**

19 Plaintiffs object to this Interrogatory on the grounds that it calls for a legal conclusion.  
20 Plaintiffs further object to this Interrogatory on the grounds that it is vague and ambiguous.  
21 Plaintiffs further object to this Interrogatory on the grounds that it calls for expert analysis and  
22 opinion in violation of the Court’s December 7, 2007 Order Re-Setting Deadlines, which does not  
23 yet require the disclosure of expert reports. Plaintiffs further object to this Interrogatory to the  
24 extent that it seeks information protected by the attorney-client privilege, the attorney work  
25 product doctrine, or any other applicable evidentiary privilege. Subject to and without waiving  
26 these objections or the General Objections, Plaintiffs respond as follows:  
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1           The breach of contract claims asserted by Adderley and the GLA Class Members are  
2 based on the Adderley GLA and on those additional GLAs signed by GLA Class Members during  
3 the statute of limitations period that contain language similar to the Adderley GLA, as well as on  
4 those contracts identified in response to Interrogatory No. 9, the 2000 NFLPA-PLAYERS INC  
5 Agreement, and all additional agreements which establish the "equal share" royalty as described  
6 by Defendants' Rule 30(b)(6) witness.  
7

8 **INTERROGATORY NO. 12:**

9           Describe the bases for ADDERLEY's and the putative GLA CLASS's contention that an  
10 "EQUAL SHARE ROYALTY" is an appropriate measure of damages for their breach of  
11 fiduciary duty claim based upon the ADDERLEY GLA.  
12

13 **RESPONSE TO INTERROGATORY NO. 12:**

14           Plaintiffs object to this Interrogatory on the grounds that it calls for a legal conclusion.  
15 Plaintiffs further object to this Interrogatory to the extent that it seeks information protected by  
16 the attorney-client privilege, the attorney work product doctrine, or any other applicable  
17 evidentiary privilege. Plaintiffs also object to this Interrogatory on the grounds that it calls for  
18 expert analysis and opinion in violation of the Court's December 7, 2007 Order Re-Setting  
19 Deadlines, which does not yet require the disclosure of expert reports. Subject to and without  
20 waiving these objections or the General Objections, Plaintiffs respond as follows:  
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22           Adderley's breach of fiduciary duty claim is based upon Defendants' solicitation of  
23 Adderley and the GLA Class Members to sign the Adderley GLA granting Defendants the right  
24 to license their images in group licensing programs. Defendants became the representatives of  
25 retired players who signed the Adderley GLAs for purposes of group licensing programs.  
26 Defendants licensed the right to use retired player images through group licensing programs to at  
27 least those licensees identified in response to Interrogatory No. 9. Defendants admit that royalties  
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1 from such licenses were distributed to active players on an "equal share" basis from an escrow  
2 account. Defendants further admit that no royalties from such licenses were distributed to any  
3 retired players, despite Defendants' obligation as agents and fiduciaries, to do so. Because the  
4 right to use the images of Adderley and the GLA Class Member was licensed through a group  
5 licensing program to identifiable licensees, Defendants should have distributed such royalties to  
6 Adderley and the GLA Class Members in the same manner as active players shared in such  
7 royalties, *e.g.*, each receiving an "equal share" of the royalties. Accordingly, the damages  
8 resulting from Defendants' breach of their fiduciary duty to account for and distribute royalties to  
9 Adderley and the GLA Class is an "equal share" of all such royalties.  
10

11           Alternatively, should Defendants contend that, contrary to the express language of the  
12 license agreements, they did not license the rights of retired members pursuant to the licensing  
13 agreements identified in response to Interrogatory No. 9, then Defendants breached their fiduciary  
14 duty to Adderley and the GLA Class Members by virtue of the failure to license such rights.  
15 Having solicited retired members to grant their rights and having the opportunity to grant a group  
16 license for all members who signed a GLA, Defendants breached their duty by electing to license  
17 only active players, and by failing to provide adequate information to the licensees about the  
18 rights of retired players that had been granted to the Defendants and for which they had authority  
19 to license. Because the licensees would have been willing to pay at least as much, if not more, for  
20 the rights of both active players and the retired players who are members of the GLA Class as  
21 they paid for the rights that Defendants claim to have granted, the GLA Class members are  
22 entitled to recover as damages an amount that would have been their equal share of such revenue.  
23 The fact that the license agreements provide that the payments are guaranteed by the licensees  
24 without regard to the use of any images by the licensees further supports the claims of the GLA  
25 Class.  
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1 As a further alternative, Plaintiffs seek disgorgement of the amounts received by the  
2 Defendants, in whole or in part.

3 In addition, for the breach of fiduciary duties relating to the reallocation of \$8 million and  
4 other fees wrongfully collected by the Defendants, Plaintiffs seek disgorgement and will allocate  
5 those damages in an equal share amount.  
6

7 **INTERROGATORY NO. 13:**

8 Describe the bases for ADDERLEY's and the putative GLA CLASS's contention that  
9 their group licensing rights were included within the "exclusive" 2005 EA AGREEMENT  
10 (TAC ¶ 25) in light of the fact that the ADDERLEY GLA is expressly "non-exclusive."  
11

12 **RESPONSE TO INTERROGATORY NO. 13:**

13 Plaintiffs object to this Interrogatory on the grounds that it calls for a legal conclusion.  
14 Plaintiffs further object to this Interrogatory on the grounds that the term "exclusive" is vague and  
15 ambiguous. Subject to and without waiving these objections or the General Objections, Plaintiffs  
16 respond as follows:

17 There are several bases for concluding that the group licensing rights of Adderley and the  
18 GLA Class are included within the 2005 EA Agreement. First, the Adderley GLA grants  
19 Defendants the exclusive right to use the retired player's image in connection with group  
20 licensing. Specifically, the Adderley GLA states that "[t]he undersigned player retains the right  
21 to grant the use of his image to another entity for use in a group of five (5) or less present or  
22 former players . . ." By defining the rights retained by the retired player, Defendants have  
23 necessarily determined the rights that the retired player does not retain, *i.e.*, retired players do not  
24 retain the right to grant the use of his image in connection with group licensing programs  
25 (licensing "six (6) or more present or former NFL player images). Thus, for purposes of the 2005  
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1 EA Agreement, Defendants had the ability to and did grant the exclusive right to use retired  
2 player images.

3 Second, whether Players Inc conveys "exclusive" rights to EA is separate and independent  
4 of whether GLA Class members have granted "non-exclusive" rights to Players Inc. The  
5 "exclusive" language in the 2005 EA Agreement means that Players Inc has unilaterally  
6 determined that it will not license retired player rights to any other licensee with respect to those  
7 goods covered by the 2005 EA Agreement. Players Inc (as well as the GLA Class members)  
8 retains the right to license retired player group licensing rights to countless other licensees for  
9 different goods. Significantly, Players Inc did not grant to EA the sole (*i.e.*, exclusive) right to  
10 use retired player images generally to the exclusion of all other licensees.

11 Dated: May 19, 2008

MANATT, PHELPS & PHILLIPS, LLP

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13  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT  
SAN FRANCISCO DIVISION

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

Plaintiffs,

NATIONAL FOOTBALL LEAGUE PLAYERS ASSOCIATION, a Virginia corporation, and NATIONAL FOOTBALL LEAGUE PLAYERS INCORPORATED d/b/a PLAYERS INC, a Virginia corporation,

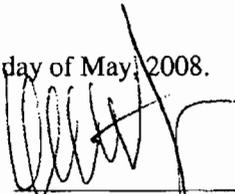
Defendants.

CIVIL ACTION NO. C07 0943 WHA

**VERIFICATION**

I, Laura M. Franco, have reviewed Plaintiffs' Objections and Responses to Defendants' Third Set of Interrogatories and know the contents thereof. I believe to the best of my knowledge that the matters stated therein are true and correct.

Declared under penalty of perjury this 19th day of May, 2008.



Laura M. Franco

## **EXHIBIT A**

20TH CENTURY FOX

23 K GOLD

5TH & OCEAN

ABC

ACTIVA

ADIDAS

AIRPLAY NETWORK

ALEXANDER GLOBAL

ALL SPORT ENTERTAINMENT

AMERICAN CITY BUSINESS JOURNAL

AOL

ATARI

ATHLON SPORTS

BANK OF AMERICA

BRADFORD

CDM FANTASY SPORT

CLASSIC BALLOON

COMMEMORATIVE TICKETS

DALLAS COWBOYS

DGP SERVICES #2

DISNEY WORLDWIDE

DONRUSS PLAYOFF

DREW PEARSON

EA

EASTBAY

EPIC CYCLE

ESPN

EXCALIBUR ELECTRONICS

EXCLUSIVE PRO SPORT

F&W PUBLICATIONS

FANBALL

FANTASY SPORTS

FATHEAD INC

FIFTH & OCEAN

FLEER

FLIPP SPORTS

FOTOBALL USA

FOX SPORTS

FRANCO APPAREL

FRUIT OF THE LOOM

GAMEWEAR, INC.

GARAN

GRACELYN, INC

HASBRO

HAWTHORNE

HEAD2HEAD SPORT

HEALY

HUMONGOUS

IMAGINATION

INFOGRAMES

JAMDAT MOBILE

JOHN F. TURNER

JOY ATHLETIC

K2 LICENSING

KING B

KRAUSE PUBLICAI

LITTLE EARTH PRODUCTIONS

LOGO ATHLETIC

MAJESTIC ATHLETIC

MBI

MICROSOFT

MIDWAY

MISCLASS

MJM

MOTION IMAGING

MVP PICS

NATIONAL DIRECT

NFL

NFL VIGNETTES

NIKE

NODLAND INVESTMENTS

ON FIELD APPARIEL

ORIGINAL MINI'S

PACIFIC

PARISH NATIONAL

PAYDAY SPORTS

PETER DAVID

PHOTO FILE

PLAYOFF

PRO SPECIALTIES

PROTRADE SPORTS

RACING CHAMP

RC2

READY-SET-GO FANTASY

REEBOK

RIDDELL

RIPON

S C CHRISTMAS I

SABABA GLOBAL

SANDBOX.COM #46

SC NEW HAVEN CO.

SCOTTISH CHRIST

SEGA

SERIOUS USA

SONY

SPORTSLINE

STACKABLE SPORT

STAHL'S

STARLINE

STATS, INC

STEINER SPORTS

STRAT-O-MATIC

TEAM BEANS

THE BOELTER COMPANIES  
THE MEMORY CO  
THE MERRICK MINT  
THE NORTHWEST COMPANY  
THE SPORTING NEWS  
THQ  
TMP INT'L  
TODD MCFARLANE  
TOPPS  
TR OLD MONEY  
TRANSPORT GRAPHIC  
TRENDS INTERNATIONAL  
ULTIMATE SPORTS  
UPPER CLASS COL  
UPPER DECK  
UPI MARKETING  
USAOPOLY  
VF CORP.  
VULCAN  
WHATIFSPORTS.CO  
WHITE, REGINALD  
WILMINGTON PROD  
WINCRAFT  
WINNING STREAK  
WIZARDS OF THE COAST  
YAHOO

## **EXHIBIT B**

<b>Bates Number</b>	<b>Licensee</b>
PI007490	Activa Consumer Promotions
PI007461	Activa Consumer Promotions
PI007514	Airplay
PI008095	All Sport Entertainment
PI007561	America Online
PI007300	American City Business Journals dba Sporting News
PI007549	AOL LLC
PI007590	Atari
PI007575	Atari
PI007604	Boelter Brands
PI007313	Boelter Brands
PI007617	Bradford Exchange
PI007653	CDM Fantasy Sports
PI007679	Commemorative Tickets.com
PI007692	Dallas Cowboys Merchandising
PI007734	Donruss Playoff Corp.
PI007720	Donruss Playoff Corp.
PI007705	Donruss Playoff Corp.
PI000072	EA Sports
PI000055	EA Sports
PI007063	EA Sports
PI007760	ESPN/Starwave Partners
PI007424	Excalibur Electronics

PI008021	F&W Publications
PI007823	Fanball
PI007835	Fantasy Sports Championships, Inc.
PI007869	Fathead
PI007946	Flipp
PI007996	Fox Sports Interactive Media
PI007983	Fox Sports Interactive Media
PI007970	Fox Sports Interactive Media
PI008047	Gamewear
PI008060	Gracelyn, Inc.
PI008109	Head2Head Sports
PI008122	Healy Awards
PI007437	Healy Awards
PI008135	Jamdat Mobile
PI008175	John F. Turner and Co.
PI008188	K2 Licensing
PI007411	K2 Licensing
PI008201	Little Earth Productions
PI008242	MBI Incorporated
PI006036	Merrick Mint
PI006022	Merrick Mint
PI006073	Motion Imaging
PI005972	MVP Pics USA
PI006087	National Direct
PI006126	Original Minis
PI006139	Original Minis

PI006167	PayDay Sports Inc
PI006205	Peter David
PI006180	Peter David
PI006246	Photo File
PI006259	Photo File
PI006272	Photo File
PI006321	Pro Specialties Group
PI006307	Pro Specialties Group
PI006335	Pro Trade, Inc.
PI007475	Pro Trade, Inc.
PI006360	RC2 Brands
PI006386	RC2 Brands
PI006556	Sababa Toys
PI006570	SC Sports
PI006598	Serious USA
PI006611	Serious USA
PI006624	Sony Computer Entertainment America
PI006650	Specialty Board Games
PI006663	SportsLine.com
PI006781	STATS LLC
PI006850	Team Beans
PI005985	The Northwest Co.
PI006962	The Topps Company
PI006231	The Topps Company
PI007368	The Topps Company
PI006919	THQ Wireless

PI006904	THQ Wireless
PI006932	TMP International
PI006999	Transport Graphics dba Apeels
PI007038	Trends International
PI007024	Trends International
PI007327	Trends International
PI007397	UPI Marketing
PI007050	Upper Class Collectibles
PI007063	Upper Deck
PI007159	Upper Deck
PI007187	USAOPOLY
PI007174	USAOPOLY
PI007355	USAOPOLY
PI007200	VF Imagewear
PI006878	Vulcan Sports Media [1]
PI006865	Vulcan Sports Media [1]
PI006113	Wilmington Products
PI006100	Wilmington Products
PI007224	Wincraft Inc
PI007251	Winning Streak Sports
PI007340	Yahoo! Inc.

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**PROOF OF SERVICE**

I, Ryan S. Hilbert, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is 1001 Page Mill Road, Building 2, Palo Alto, CA 94304. On May 19, 2008, I served the within document(s):

**PLAINTIFFS' RESPONSES AND OBJECTIONS TO DEFENDANTS' THIRD SET OF REQUEST FOR PRODUCTION OF DOCUMENTS**

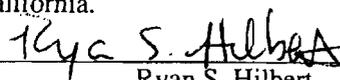
- By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail, addressed as set forth below.
- By transmitting via facsimile the document listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- By placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for delivery.
- By electronic mail to the below email addresses:

Jeffrey L. Kessler, Esq. David G. Feher, Esq. Eamon O'Kelly, Esq. David Greenspan, Esq. Dewey & LeBoeuf LLP 1301 Avenue of the Americas New York, NY 10019-6092 Email: jkessler@dl.com; dfeher@dl.com; dgreenspan@dl.com; jclark@dl.com; rtaub@dl.com; MDonovan@dl.com; ipapendick@dl.com; lcaplan@dl.com	Kenneth L. Steintal, Esq. Joseph Wetzel, Esq. Weil, Gotshal & Manges, LLP 201 Redwood Shores Parkway Redwood Shores, CA 94065 Email: bruce.meyer@weil.com; Joseph.Wetzel@weil.com
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I am readily familiar with the Manatt, Phelps & Phillips, LLP's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 19, 2008, at Palo Alto, California.

  
 \_\_\_\_\_  
 Ryan S. Hilbert