

# **EXHIBIT 6**

**Case No. C 07 0943 WHA**

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

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO

PAUL PARRISH and  
HERBERT ANTHONY ADDERLEY,  
on behalf of themselves  
and all others similarly  
situated,

Plaintiffs

vs.

NATIONAL FOOTBALL LEAGUE,  
PLAYERS INCORPORATED, d/b/a  
PLAYERS, INC., a Virginia  
Corporation,

CASE NO. 07-0943

Defendant

VIDEOTAPED DEPOSITION OF

JOSEPH H. NAHRA

April 16, 2008  
9:00 a.m.

Manatt, Phelps & Phillips  
One Metro Center  
Suite 1100, 700 12th Street, NW  
Washington, D.C.

Reported By: T. S. Hubbard, Jr.

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12 On behalf of the Defendant

13  
14 ALSO PRESENT: Michael Gay, Videographer

15  
16 The videotaped deposition of JOSEPH H. NAHRA,  
17 First as 30(b)(6) Witness for NFLPA, and then  
18 Individually, taken on Wednesday, April 16, 2008,  
19 commencing at 9:00 a.m., at the law offices of  
20 Manatt, Phelps & Phillips, One Metro Center,  
21 Suite 1100, 700 12th Street, Northwest,  
22 Washington, D.C., before T. S. Hubbard, court  
23 reporter and notary public.

1 Q. I am just asking you the general  
2 question. The phrase non-exclusive as used in  
3 this form Exhibit 501, have you gained an  
4 understanding based on your preparation what  
5 that term meant?

6 A. Yes.

7 Q. What is it?

8 A. Well, it's non-exclusive as opposed to  
9 being exclusive. There were a number of  
10 particularly high profile retired players who  
11 were hesitant to sign a group licensing  
12 authorization form if it was granting the NFLPA  
13 exclusive rights to use that player in group  
14 licensing programs.

15 This form says non-exclusive meaning  
16 that the player would not be granting the NFLPA  
17 the exclusive right to use that player in group  
18 licensing programs.

19 Q. Was that reference to non-exclusive a  
20 change in the language of the retired player GLA  
21 form from an earlier version?

22 A. Yes.

23 Q. Do you know when that change was made?

24 A. I believe it was pretty close to the  
25 date of this agreement. Some time in 2001.

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1 specific revenue was not intended to be covered  
2 by this language, the first sentence of  
3 paragraph 5?

4 MR. FEHER: Objection to form.

5 THE WITNESS: My understanding is that  
6 money generated from specific individual retired  
7 players was intended to be covered by this form.

8 BY MR. LeCLAIR:

9 Q. But the NFLPA didn't do that, right?

10 A. It didn't do what?

11 Q. It didn't divide the money or create an  
12 escrow account.

13 MR. FEHER: Objection to form.

14 THE WITNESS: An escrow account was not  
15 created. The money from specific individual  
16 retired players was paid to those specific  
17 individual retired players.

18 BY MR. LeCLAIR:

19 Q. Is it your understanding, Mr. Nahra,  
20 that there was some different kind of revenue  
21 that was expected to be obtained that would have  
22 been treated in the manner set forth in the  
23 first sentence of paragraph 5?

24 MR. FEHER: Objection. You can answer.

25 THE WITNESS: You mean different than

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1 specific money for specific retired players?

2 BY MR. LeCLAIR:

3 Q. Correct.

4 A. Well, I think there was -- I know there  
5 was a hope that licensees would be willing to  
6 pay money to get retired player rights in  
7 general without regard to who those particular  
8 players were but that never happened.

9 Despite our efforts that never  
10 happened. There were no licensees that were  
11 willing to pay either a guarantee or some sort  
12 of flat fee for just getting whatever retired  
13 players they got. It was always where the  
14 licensees were only interested in obtaining  
15 rights to particular retired players.

16 Q. Did the NFLPA ever seek to grant rights  
17 to retired players who had in fact signed GLAs?  
18 All such players?

19 A. I'm not sure.

20 Q. Did the NFLPA or Players, Inc. to your  
21 knowledge ever even tell people who they even  
22 had GLAs from?

23 MR. FEHER: Objection to the form.  
24 This is starting to go pretty far beyond the  
25 drafting process, Lew.

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1 licensing programs did receive revenue generated  
2 from that use.

3 Q. My question --

4 MR. FEHER: Let the witness finish.

5 THE WITNESS: In many instances.

6 BY MR. LeCLAIR:

7 Q. I will quote here.

8 "Monies generated by such  
9 licensing of retired player  
10 groups or group rights divided  
11 between the player and an  
12 escrow account for all eligible  
13 NFLPA members who have signed a  
14 group licensing authorization  
15 form."

16 Did that ever happen?

17 MR. FEHER: Objection to form.

18 THE WITNESS: Money for specific  
19 individual retired players whose images were  
20 used was paid to those specific players in many  
21 instances.

22 There was never any money created or  
23 generated that wasn't attributable to specific  
24 retired player image use and no escrow account  
25 was ever created because there was no money to

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1 go into an escrow account, because all of the  
2 money generated was for specific use of  
3 individual retired players and in, I will say,  
4 most, if not all, instances was paid directly to  
5 those specific retired players.

6 BY MR. LeCLAIR:

7 Q. Just so the record is clear. There was  
8 never any division of money between a player and  
9 an escrow account, correct?

10 A. An escrow account was never created  
11 because there was never any money for the escrow  
12 account.

13 Q. Did the NFLPA, or Players, Inc., to  
14 your knowledge, ever communicate to any retired  
15 player that an escrow account had not been  
16 created?

17 MR. FEHER: Same basis. This is beyond  
18 the scope of the 30(b)(6), as we have read it.  
19 So I will instruct him not to answer on the  
20 30(b)(6) basis, but to the extent he knows  
21 individually I will let him answer.

22 THE WITNESS: I'm not aware of any such  
23 communication.

24 MR. FEHER: Is this a good break point?

25 MR. LeCLAIR: Yes, that is fine, you

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1 not about the drafting process. You can answer  
2 in an individual capacity.

3 THE WITNESS: I believe the hope was to  
4 get as many retired players to sign GLAs as  
5 possible.

6 BY MR. LeCLAIR:

7 Q. Why?

8 MR. FEHER: Same instruction.

9 THE WITNESS: Because I believe that  
10 the hope was to be able to convince licensees  
11 that they should use lots of players in their  
12 license products. Not just the high profile  
13 players that they had been limiting their use to  
14 over the years.

15 I believe it was just always the intent  
16 to get as many people to sign it as possible.  
17 It is a way of generating support and goodwill  
18 within the retired player community. We hoped.

19 BY MR. LeCLAIR:

20 Q. Are you aware of whether the NFLPA, or  
21 Players, Inc. ever actually communicated  
22 specifically to any licensees the names of the  
23 retired players who had signed GLAs?

24 MR. FEHER: Same instruction as to  
25 30(b)(6) status.

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1 THE WITNESS: Can you say it one more  
2 time.

3 BY MR. LeCLAIR:

4 Q. Sure. Are you aware of whether the  
5 NFLPA or Players, Inc. ever actually communicated  
6 to any licensees the specific names of retired  
7 players who had in fact signed a GLA?

8 MR. FEHER: Same instruction. You can  
9 answer.

10 THE WITNESS: I'm not aware of any  
11 specific instances. I do know that the staff at  
12 Players, Inc. encouraged licensees to consider  
13 using retired players in their licensed  
14 products.

15 BY MR. LeCLAIR:

16 Q. That is helpful, but you are not aware  
17 of them actually saying, "We have this list of  
18 2,000 retired players for whom we have licensed  
19 rights," are you aware of that ever being  
20 communicated to any licensee?

21 MR. FEHER: Same instruction.

22 THE WITNESS: It may well have been.  
23 I'm just not aware of any specific instance. I  
24 didn't deal with it at that level.

25 BY MR. LeCLAIR:

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1           A. I don't know.

2           Q. Tell me what your discussions were with  
3 him about Exhibit 506?

4           A. Well, like I just testified, we  
5 specifically talked about the escrow account  
6 language and why that was removed, and he said  
7 the escrow account was removed because it didn't  
8 make sense to have it any longer because in  
9 approximately 10 years of licensing efforts, we  
10 were not able to generate any money for an  
11 escrow account so there was never one set up.

12          Q. Let me ask you about these changes and  
13 whether you have any source of information about  
14 them. The first change I want to ask you about  
15 is in the first sentence of the Exhibit 509  
16 attachment, there's a deletion of the phrase "a  
17 member of the National Football League Players  
18 Association, NFLPA," do you see that?

19          A. I do.

20          Q. Do you have any source of knowledge  
21 from which you can provide an explanation as to  
22 why that language was deleted?

23               MR. FEHER: To be clear, Joe, you  
24 cannot give any personal opinion that you may  
25 have now as an attorney; rather, you are free to

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1 difference there is no reason to add confusion.  
2 Does it make any difference whether the players  
3 are active or retired?

4 A. Well, it could conceivably, depending on  
5 the situation.

6 Q. How could it make a difference for  
7 purposes of whether it constitutes group  
8 licensing that requires a license from the NFLPA  
9 or Players, Inc.?

10 MR. FEHER: Objection to form.

11 THE WITNESS: Well, our rights with  
12 regard to retired players are non-exclusive and  
13 our rights with regard to active players are  
14 exclusive.

15 BY MR. LeCLAIR:

16 Q. Well, I think we are getting somewhere.  
17 This is my point, which is, are you saying that  
18 if five retired NFL players make individual  
19 endorsement deals and then the company signs a  
20 sixth player who is retired, that that doesn't  
21 constitute group licensing?

22 MR. FEHER: Objection, you can answer.

23 THE WITNESS: I'm not sure what the  
24 answer to that is. I'm not sure that that  
25 situation has ever come up and I cannot answer

1 way.

2 BY MR. LeCLAIR:

3 Q. For what purpose did the NFLPA solicit  
4 and obtain the annual GLA forms from retired  
5 players?

6 MR. FEHER: Objection to form. I don't  
7 think it is within the 30(b)(6). Can you read  
8 it back to me again to be sure?

9 THE REPORTER: (Reading.)

10 "Question: For what purpose  
11 did the NFLPA solicit and  
12 obtain the annual GLA forms  
13 from retired players?"

14 MR. FEHER: You are talking about 501  
15 in particular.

16 MR. LeCLAIR: That is fine. We can say  
17 501.

18 MR. FEHER: With that I won't instruct  
19 him. I won't instruct him. I will object to  
20 the form.

21 THE WITNESS: Again, it was always our  
22 hope and intent that we would be able to build a  
23 group licensing program for retired players  
24 whereby a licensee would be interested in just  
25 securing all of the retired players we had

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1 without regard to who they were and willing to  
2 pay us an amount of money just to get all the  
3 people we had in the group.

4 So we tried to collect as many GLAs as  
5 we could in order to make that a viable program  
6 so that we had something to give to those  
7 licensees.

8 But the problem as you exactly said in  
9 your statement in your question, was that the  
10 companies that we discussed this with were only  
11 interested in particular players at particular  
12 prices, and that's why we had to do ad hoc  
13 agreements, because the high profile players they  
14 were interested in were not going to participate  
15 in a program, and we can use Reebok as an  
16 example, unless they knew how much money they  
17 were getting and we had to memorialize that  
18 dollar amount in an agreement, and those are the  
19 ad hoc agreements.

20 BY MR. LeCLAIR:

21 Q. You had this program in place for 18  
22 years from the early 1990s to today. Well, not  
23 to today, but at least from the early 1990s  
24 through to 2007, you had this GLA program in  
25 place where you solicited and obtained annual

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1 are?

2 Q. Yes.

3 MR. FEHER: Objection to form. You can  
4 answer.

5 THE WITNESS: I am not sure what all  
6 the benefits are. I don't have a list. I have  
7 never been advised as to what all the benefits  
8 are.

9 BY MR. LeCLAIR:

10 Q. Can you tell me any of the benefits of  
11 such participation?

12 MR. FEHER: Objection to form.

13 THE WITNESS: Well, the potential  
14 benefit to be included in a retired player group  
15 licensing program, that Players, Inc. was able  
16 to negotiate with the licensee.

17 BY MR. LeCLAIR:

18 Q. Are you aware that most of the retired  
19 players who signed GLAs never got anything?

20 MR. FEHER: Objection.

21 THE WITNESS: I am aware that a lot of  
22 the players whose licensees wanted to use in  
23 their licensing programs were high profile  
24 players who particularly before we changed the  
25 GLA from exclusive to non-exclusive had not

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1 signed GLAs and we do not control, and we have  
2 no way of controlling who the licensee feels they  
3 can include in a licensed product and generate  
4 revenue.

5 We are not in the trading card  
6 business. We are not in the video game  
7 business. We leave it to the licensees who are  
8 the experts in those businesses to decide what  
9 players they want to use.

10 What we want to do is make it as easy  
11 as possible and to encourage them to use as many  
12 players as possible, but we cannot control what  
13 they decide to do.

14 BY MR. LeCLAIR:

15 Q. The sentence after that says:

16 "Rather our program takes  
17 advantage of a wide variety of  
18 opportunities benefiting  
19 thousands of retired players."

20 I will stop the quote there. Tell me  
21 what benefit "thousands of retired players"  
22 received from the NFL retired group licensing  
23 program?

24 MR. FEHER: Objection to form.

25 THE WITNESS: Well, I don't have

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1 former Exhibit 26 with former Exhibit 29. That  
2 is an example of what I am talking about.

3 A. What paragraph did you say?

4 Q. Look at paragraph 2. Both of them have  
5 a paragraph 2. There's a difference here  
6 between the language in paragraph 2A from the  
7 2001 agreement to the 2005 agreement. Were you  
8 involved in that change?

9 A. I am sorry. I missed it. If you would  
10 point out what the change was.

11 Q. Oh, sure. 2A in the June 2001  
12 agreement talks about the identify of the NFL  
13 players listed in Attachment B, and the 2005  
14 agreement, Exhibit 29, references "the NFL  
15 players referenced in paragraph 1A above."

16 A: Yes.

17 Q. So it was changed.

18 A. Yes.

19 Q. My question is: Were you involved in  
20 that?

21 A. Yes, I was involved in that.

22 Q. Tell me why that change was made.

23 MR. FEHER: Objection to form to the  
24 extent that it doesn't involve attorney-client  
25 communications you can testify, but to the

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1 extent that there are attorney-client  
2 communications and attorney-client advice, then  
3 you cannot divulge privileged information.

4 THE WITNESS: I believe that there was  
5 a business purpose for making this change. In  
6 probably about 2003 we had a new website and a  
7 new database.

8 THE VIDEOGRAPHER: Excuse me, but I am  
9 getting an interference. Does somebody have a  
10 phone or blackberry? Thank you.

11 THE WITNESS: Shall I continue with my  
12 answer?

13 BY MR. LeCLAIR:

14 Q. Yes.

15 A. There was a business reason for  
16 revising the change. In about 2003 we had a new  
17 website and a new database supporting the  
18 website whereby we could provide a list on the  
19 website of all of the active players for whom we  
20 had group licensing rights and it was no longer  
21 necessary to attach to the license agreement a  
22 long, probably a 20 to 25 page document listing  
23 all of the players, all of the active players in  
24 the league, to who we had rights which we used  
25 to do as Attachment B.

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1           So that change was made to exclude  
2 Attachment B, and then the rights, the  
3 identities of players instead of being  
4 identified on Attachment B are identified when a  
5 licensee follows the instructions in paragraph  
6 12 of the license agreement to go to the website  
7 and view the list of players, the list of active  
8 players for whom we have group licensing  
9 authorizations.

10           Q. There is another change in paragraph 1A  
11 which is that there's a phrase added in the 2005  
12 agreement in the third from the bottom line of  
13 1A, the phrase is:

14                           "Including but not limited to  
15                           retired players."

16           Do you see that?

17           A. I do.

18           Q. Were you involved in that change?

19           A. I was involved in that change to the  
20 extent that I made the changes on the document  
21 on the computer.

22           MR. LeCLAIR: I don't know what you are  
23 going to get instructed on or not, so I will  
24 just ask the question.

25 BY MR. LeCLAIR:

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1 Q. Did anyone ever explain to you why  
2 there was a specific reference to retired  
3 players added to paragraph 1A?

4 MR. FEHER: If the communication  
5 doesn't involve legal advice. I don't want you  
6 to divulge legal advice, but if it is non-legal  
7 advice I am not going to instruct you.

8 MR. LeCLAIR: By the way, I note for  
9 the record that your objection and instruction  
10 is different than what you gave earlier, so it  
11 seems to me you are kind of selectively  
12 instructing, but that's fine, we will deal with  
13 that later too. Go right ahead.

14 MR. FEHER: We are at a different stage  
15 than the earlier deposition which was a 30(b)(6)  
16 deposition, so the objections are going to be  
17 somewhat different inherently because of that.

18 But if there is attorney-client  
19 communications or legal advice then you cannot  
20 do that, but if it is, as I said before, if it's  
21 business communications then you can certainly  
22 discuss that. So those are the terms of the  
23 instruction.

24 THE WITNESS: Well, I remember Doug  
25 Allen saying --

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1 MR. LeCLAIR: No. Hang on a second.  
2 You see this is my objection. Earlier you would  
3 not let me talk about anything a client said to  
4 him on any subject and now he is going to tell  
5 me about what Doug Allen said to him.

6 So your instructions are entirely  
7 inconsistent in my view and that's improper. If  
8 you want him to be able to talk about what Doug  
9 Allen said to him, I want him to talk about what  
10 Doug Allen said to him on all topics.

11 MR. FEHER: We have been having  
12 deposition testimony for the last couple hours  
13 about what this witness has discussed with other  
14 people at Players, Inc., about business matters  
15 and you have been eliciting questions, scores of  
16 questions about what this witness has discussed  
17 with people at the NFLPA and Players, Inc. about  
18 business matters.

19 I didn't instruct the witness not to  
20 answer then and you didn't raise any issue about  
21 inconsistent conduct then. The treatment of  
22 this is consistent throughout and at various  
23 times when we were in the 30(b)(6) portion of  
24 this I stated on the record and I state it now  
25 when you were asking for "our position" that

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1 there were two issues, one is that it was  
2 outside the scope of the 30(b)(6) so it could  
3 not be official, and secondly with regard to  
4 position, it couldn't be Mr. Nahra's personal  
5 legal opinions which would be improper, and  
6 secondly attorney-client communications.

7 If it is business communications we  
8 made it quite plain after that discussion if  
9 there were business communications then those  
10 are not covered by attorney-client privilege, so  
11 the same instruction and same rules apply here.  
12 We have been doing it for the last number of  
13 hours and I am not doing anything different now.

14 MR. LeCLAIR: We will let the record  
15 speak for itself.

16 BY MR. LeCLAIR:

17 Q. Go right ahead, Mr. Nahra.

18 A. Well, this was really a business point,  
19 or at least I felt it was a business point.  
20 Doug Allen wanted to include that phrase as a  
21 way of signaling to our licensees that it's  
22 possible to secure retired player rights from  
23 Players, Inc. because we do occasionally obtain  
24 those rights. The whole sentence is aimed at  
25 securing rights for players who have not entered

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1 into a GLA who are not part of the description.

2 Right. It is for letting the licensee  
3 know that there are occasions when we get rights  
4 from other players and if they are interested in  
5 using other players that are not identified on  
6 the list that's on the website, then they can  
7 inquire as to us whether we can get those rights  
8 if they want to include those rights, but if you  
9 will look in paragraph 12, that additional use  
10 of players may require additional payment.

11 So, for example, with regard to active  
12 players, we wanted licensees to know, in Exhibit  
13 26 it was clear that someone who had not signed  
14 a GLA, like, for example, there is a player  
15 named LaVar Arrington who didn't sign a GLA, but  
16 it is possible that maybe he would have agreed  
17 to sign some other document giving one of our  
18 licensees his rights for a particular program,  
19 just as we wanted licensees to be aware that  
20 someone in that decision may be available for  
21 inclusion if they wanted to use them the same  
22 applied to retired players and Doug Allen wanted  
23 to make that clear.

24 These players were not part of this  
25 license agreement, but if they wanted to inquire

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1 about using retired players they could do that.

2 Q. You said that these retired players  
3 were not part of the license agreement? Who  
4 told you that?

5 A. Well, this is a grant of active player  
6 rights for -- this specific one is for a video  
7 game for EA.

8 Q. You are saying that your active players  
9 granted rights because that's your legal opinion  
10 now you're giving me?

11 A. No, because the report that they go to  
12 on the website which used to be Attachment B  
13 contains a list of active place. Just active  
14 players.

15 Q. Are you giving me your legal  
16 interpretation of this document, now, Mr. Nahra?

17 A. No.

18 Q. What are you giving me then?

19 A. I am giving you an explanation as to  
20 the process of how licensees get the list of  
21 players to whom they have rights that used to be  
22 under Attachment B in the version that's  
23 identified in Exhibit 26, and now, under the  
24 changes that we have discussed in Exhibit 29,  
25 those rights are granted and the players are

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1 identified through the list on our website.

2 Q. The grant of rights in 2A is a grant of  
3 rights to the "NFL Players Reference in  
4 paragraph 1A above," correct?

5 MR. FEHER: Objection to form. Are you  
6 asking for his legal --

7 MR. LeCLAIR: I just want his answer.  
8 I do not want a speaking objection. So you can  
9 say form. You have done it. Let's have an  
10 answer.

11 MR. FEHER: Same instruction consistent  
12 with what I have given you.

13 THE WITNESS: My understanding --

14 BY MR. LeCLAIR:

15 Q. You gave me your understanding.

16 A: I will give you my understanding.

17 MR. FEHER: Wait. Joe, Joe. This has  
18 to be consistent. If there are business  
19 discussions with other people, then you can  
20 divulge them.

21 MR. LeCLAIR: You see, that is the  
22 problem. He is giving me internal discussions  
23 that you wouldn't give me earlier so it is  
24 entirely inconsistent.

25 MR. FEHER: I gave the instruction the

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CERTIFICATE OF SHORTHAND REPORTER/NOTARY PUBLIC

I, T. S. Hubbard, Jr., Court Reporter, the officer before whom the foregoing proceedings were taken, do hereby certify that the foregoing transcript is a true and correct record of the proceedings; that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of April 2008.

My Commission Expires:  
July 19, 2011

  
T. S. Hubbard, Jr.

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