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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

CIVIL ACTION NO. C07 0943 WHA

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

Plaintiffs

vs.

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

Defendants.

DECLARATION OF ANTHONY  
M. GARZA IN SUPPORT OF  
PLAINTIFFS' OPPOSITION TO  
DEFENDANTS' MOTION IN  
LIMINE NO. 2 TO EXCLUDE  
EVIDENCE ABOUT PLAINTIFFS'  
COMPLAINTS RELATING TO  
RETIRED PLAYER PENSION  
AND DISABILITY BENEFITS,  
COLLECTIVE BARGAINING,  
AND OTHER ISSUES.

DECLARATION OF ANTHONY M. GARZA IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION IN  
LIMINE NO. 2 TO EXCLUDE EVIDENCE ABOUT PLAINTIFFS' COMPLAINTS RELATING TO RETIRED PLAYER PENSION  
AND DISABILITY BENEFITS, COLLECTIVE BARGAINING, AND OTHER ISSUES. – Page 1  
Civil Action No. C07 0943 WHA

1 I, Anthony M. Garza, declare as follows:

2 1. I am an attorney with McKool Smith, P.C., counsel for Plaintiff Herbert Anthony  
3 Adderley and the GLA Class in this matter. I have personal knowledge of the matters stated  
4 herein.  
5

6 2. Attached hereto as Exhibit A is a true and correct copy of an article entitled "Ex-  
7 Players Say NFL Neglects Retirees; Hall of Famers, League, Union Leader Fall Short in  
8 Providing Benefits," from the Charlotte Observer, dated January 15, 2006, and marked as  
9 Exhibit 117.  
10

11 3. Attached hereto as Exhibit B is a true and correct copy of an excerpt from the  
12 transcript of Mr. Joseph H. Nahra's deposition, taken pursuant to Rule 30(b)(6), dated April 16,  
13 2008.

14 4. Attached hereto as Exhibit C is a true and correct copy of an excerpt from the  
15 transcript of Mr. Gene Upshaw's deposition, dated February 13, 2008.

16 5. Attached hereto as Exhibit D is a true and correct copy of an excerpt from Dr.  
17 Roger G. Noll's expert report, dated June 12, 2008.

18 I declare under penalty of perjury and the laws of the United States that the foregoing is  
19 true and correct and that this declaration was executed on October 6, 2008, in Dallas, Texas.  
20

21  
22   
23  
24  
25  
26  
27

28 **DECLARATION OF ANTHONY M. GARZA IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION IN  
LIMINE NO. 2 TO EXCLUDE EVIDENCE ABOUT PLAINTIFFS' COMPLAINTS RELATING TO RETIRED PLAYER PENSION  
AND DISABILITY BENEFITS, COLLECTIVE BARGAINING, AND OTHER ISSUES. – Page 2  
Civil Action No. C07 0943 WHA**

# Exhibit A

Copyright 2006 The Charlotte Observer  
All Rights Reserved  
Charlotte Observer (North Carolina)

January 15, 2006 Sunday ONE-THREE EDITION

SECTION: SPORTS Pg. 1C

LENGTH: 2433 words

HEADLINE: EX-PLAYERS SAY NFL NEGLECTS RETIREES;  
HALL OF FAMERS: LEAGUE, UNION LEADER FALL SHORT IN PROVIDING BENEFITS

BYLINE: CHARLES CHANDLER, CCHANDLER@CHARLOTTEOBSERVER.COM

BODY:

Gene Upshaw earned induction into the Pro Football Hall of Fame by playing guard for the Oakland Raiders. Now he's at the center position of a rift in the sport's most prestigious fraternity.

Thirteen Hall of Famers interviewed by The Observer expressed concern that the NFL and the league players association, headed by Upshaw, don't do enough to help former players, especially pioneers of the game suffering crippling health and financial difficulties.

"It's the deep, dark secret nobody wants to talk about," said Howie Long, a former Raiders defensive lineman who's now a studio analyst for Fox Sports.

Long, Joe Montana, John Elway, Ronnie Lott, Marcus Allen, Joe DeLamielleure, Randy White and Deacon Jones were among the Hall of Famers who expressed varying degrees of dissatisfaction with the NFL's pension and healthcare benefits. They said they were speaking on behalf of all retirees, not just themselves.

"When I went to the Hall of Fame in 2000 and was inducted, it was a travesty, the kind of carnage I saw out of these guys who were in their 50s and 60s, who had defined and in many ways laid the foundation for the NFL being what it is today," Long said.

"Many of them could barely rub two nickels together to get to Canton. Many of them couldn't afford to have their knee replaced or had fallen through whatever imaginary net there is from an economic standpoint. Not enough is being done."

Long said it's the dual responsibility of the league and the players association to fix the problem.

Other Hall of Famers say they feel neglected and abandoned by Upshaw.

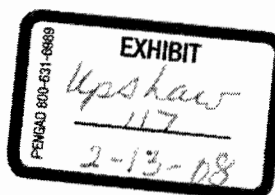
"We figure all we have to do is go to my man," said former Baltimore Colts running back Lenny Moore. "He's the head of the NFL Players Association. He's the guy who ought to pry the door open for us."

Said ex-Houston Oilers defensive end Elvin Bethca: "The union doesn't care about us. You're a forgotten child."

Upshaw said he does care and is proud of pension improvements made under his leadership, such as more than tripling monthly pension payments to retirees who played before 1959. He also said those benefits are now protected by law, but previously were not.

"For these guys to say what they get is peanuts, they're being ungrateful," said Upshaw, noting that current players agreed to fund higher payments to their predecessors.

Upshaw and NFL spokesman Greg Aiello said the league pays out nearly \$5 million per month in retirement benefits, including \$1 million in disability.



CLASS 003000

EX-PLAYERS SAY NFL NEGLECTS RETIREES; HALL OF FAMERS' LEAGUE, UNION LEADER FALL SHORT  
IN PROVIDING BENEFITS (Charlotte Observer (North Carolina) January 15, 2006 Sunday ONE-THREE EDITION)

Upshaw, 60, who has been executive director of the NFLPA since 1987, said he stands by his record and rejects the suggestion he's supposed to be the retirees' representative.

"The bottom line is I don't work for them," he said. "They don't hire me and they can't fire me. They can complain about me all day long. They can have their opinion. But the active players have the vote. That's who pays my salary.

"They (retirees) say they don't have anybody in the (bargaining) room. Well, they don't and they never will. I'm the only one in that room. They're not in the bargaining unit. They don't even have a vote."

Montana, who quarterbacked the 49ers to four Super Bowl titles, said he has nothing against Upshaw personally, but believes the NFLPA needs new leadership.

"The NFL is the worst represented league, on the players' side, in pro sports," Montana said.

\*

#### Regret of taking early pension

The NFL is a gargantuan business and marketing success. It is estimated to make more than \$24 billion over the next eight years from its network, cable and satellite TV contracts.

The average NFL franchise is worth nearly \$819 million, according to a September report in Forbes magazine.

Team values are skyrocketing. The Carolina Panthers cost owner Jerry Richardson \$209 million when he was awarded an expansion franchise in 1993. Forbes estimated the team's current worth at \$878 million.

Long said it wouldn't take much out of the "big pie" to address retirees' financial needs, but he acknowledged getting the coffers open wouldn't be easy.

Said Elway, who led the Denver Broncos to two Super Bowl titles: "There is plenty of money. All of it should not go to the players of today. We need to take care of the pioneers who came before us and made it possible for us to make all the money we do today."

For former players like Joe Perry, 78, even a few extra dollars would help. Perry, who was the first running back in NFL history to rush for 1,000 yards in consecutive seasons, said his monthly pension payment is \$1,640 and that he and wife Donna need much of it to pay for health insurance.

"We pay something like \$300 to \$350 a month just for pills," Donna Perry said.

Perry was one of the pre-1959 players whose pension benefits increased dramatically over the past 13 years. However, he's not impressed.

"They do absolutely zero as far as I'm concerned," he said.

Former Cleveland Browns running back Leroy Kelly said he is suffering the consequences of taking his pension early at age 45 instead of waiting until 55.

Kelly, now 63, said he was receiving about \$800 a month for his 10 seasons in the league, but that his benefit fell to \$112 when he started drawing Social Security payments.

"There are about 40 of the (Hall of Fame) guys, maybe more, who signed up for the early pension," Kelly said. "It's really terrible."

Upshaw said former players used to have an option to get a higher initial sum in exchange for the Social Security offset, but that it has been closed for their protection.

Ex-Bills and Browns guard Joe DeLamielleure, 54, took his pension early because of a family financial crisis. He said he receives \$992 per month as a 13-year veteran, but would have gotten \$2,200 monthly if he had waited until next year.

"Some guys can't afford to wait until they're 55," said DeLamielleure, who lives in Charlotte. "I really want this point to be made: If this were a struggling league, we shouldn't be compensated, but it's not a struggling league.

"Football is a great game, but it's a bad business for former players."

# Exhibit B

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN FRANCISCO

4 PAUL PARRISH and  
5 HERBERT ANTHONY ADDERLEY,  
6 on behalf of themselves  
7 and all others similarly  
8 situated,  
9 Plaintiffs

10 vs.

11 NATIONAL FOOTBALL LEAGUE, CASE NO. 07-0943  
12 PLAYERS INCORPORATED, d/b/a  
13 PLAYERS, INC., a Virginia  
14 Corporation,

15 Defendant

16 ~~~~~

17 VIDEOTAPED DEPOSITION OF

18 JOSEPH H. NAHRA

19 April 16, 2008

20 9:00 a.m.

21 Manatt, Phelps & Phillips

22 One Metro Center

23 Suite 1100, 700 12th Street, NW

24 Washington, D.C.

25 Reported By: T. S. Hubbard, Jr.

<p style="text-align: right;">Page 66</p> <p>1 talking to Doug Allen, and from talking to Gene  2 Upshaw, and from talking to Clay Walker that  3 there was a hope to be able to generate, through  4 retired player group licensing, revenue, and  5 obviously this language is intended to address  6 that revenue. So that's all I can say.  7 BY MR. LeCLAIR:  8 Q. Well, in fact the retired player group  9 licensing program did generate revenue, didn't  10 it?  11 A. It generated revenue for these specific  12 retired players that were used whose images were  13 used on an individual -- Well, it generated  14 revenue for the specific individual retired  15 players whose images were used.  16 Q. Well, is that revenue not covered by  17 this first sentence of paragraph 5 to your  18 understanding?  19 MR. FEHER: Objection to form.  20 THE WITNESS: Revenue generated for  21 specific use of specific retired players was  22 revenue generated through our group licensing  23 program.  24 BY MR. LeCLAIR:  25 Q. But it is your understanding that that</p>	<p style="text-align: right;">Page 68</p> <p>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.</p>
<p style="text-align: right;">Page 67</p> <p>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</p>	<p style="text-align: right;">Page 69</p> <p>1 MR. LeCLAIR: Are you instructing him  2 not to answer?  3 MR. FEHER: I think for this portion of  4 the deposition since it is 30(b)(6), yes, for  5 that purpose.  6 BY MR. LeCLAIR:  7 Q. Was it your understanding, Mr. Nahra,  8 that if license rights were granted to retired  9 players who signed GLAs, that that money would be  10 divided between the player and an escrow account  11 for eligible NFLPA members?  12 A. I don't understand the question. It  13 doesn't make sense. But --  14 MR. FEHER: Objection.  15 THE WITNESS: We don't grant license  16 rights to retired players. We grant rights to  17 companies.  18 BY MR. LeCLAIR:  19 Q. Fair enough. My question is: If  20 rights were granted a licensee for all retired  21 players who had signed a GLA without regard to  22 specific use, was that money to be put into an  23 escrow account and divided among all eligible  24 NFLPA members?  25 MR. FEHER: Objection to form.</p>



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## 1 CERTIFICATE

2 STATE OF \_\_\_\_\_ :  
 3 COUNTY/CITY OF \_\_\_\_\_ :  
 4 ☐ Before me, this day, personally appeared,  
 5 JOSEPH H. NAHRA, who, being duly sworn,  
 6 states that the foregoing transcript of his/her Deposition,  
 7 taken in the matter, on the date, and at the time and  
 8 place set out on the title page hereof, constitutes a true  
 9 and accurate transcript of said deposition.

10 \_\_\_\_\_  
 11 JOSEPH H. NAHRA

12 ☐ SUBSCRIBED and SWORN to before me this  
 13 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ in the  
 14 jurisdiction aforesaid.

15 \_\_\_\_\_  
 16 My Commission Expires Notary Public

17 \_\_\_\_\_  
 18 \*If no changes need to be made on the following two pages,  
 19 place a check here \_\_\_\_\_, and return only this signed page.\*  
 20  
 21  
 22  
 23  
 24  
 25

Page 296

1 Deposition of JOSEPH H. NAHRA

2 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

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4 Reason for change: \_\_\_\_\_

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19 Reason for change: \_\_\_\_\_

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21 SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

22 JOSEPH H. NAHRA

23 \_\_\_\_\_

24 \_\_\_\_\_

25 \_\_\_\_\_

Page 295

## 1 DEPOSITION ERRATA SHEET

2 RE: Paulson Reporting &amp; Litigation Services.

3 File No. 7532

4 Case Caption: PAUL PARRISH, et al.

5 vs. NATIONAL FOOTBALL LEAGUE, et al.

6 Deponent: JOSEPH H. NAHRA

7 Deposition Date: April 16, 2008

8 To the Reporter:

9 I have read the entire transcript of my Deposition taken

10 in the captioned matter or the same has been read to me.

11 I request that the following changes be entered upon the

12 record for the reasons indicated. I have signed my name to

13 the Errata Sheet and the appropriate Certificate and

14 authorize you to attach both to the original transcript.

15 \_\_\_\_\_

16 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

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18 Reason for change: \_\_\_\_\_

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# Exhibit C

CONFIDENTIAL

Page 1

1       IN THE DISTRICT COURT OF THE UNITED STATES  
                                  NORTHERN DISTRICT

2                       (SAN FRANCISCO DIVISION)

3       BERNARD PAUL PARRISH, HERBERT  
4       ANTHONY ADDERLEY, and WALTER  
5       ROBERTS, III, on behalf of  
6       themselves and all others

7       similarly situated,

8                       Plaintiffs,

Civil Action

9       v.

C07 0943 WHA

10       NATIONAL FOOTBALL LEAGUE  
11       PLAYERS ASSOCIATION, a

12       Virginia Corporation, and  
13       NATIONAL FOOTBALL LEAGUE

14       PLAYERS INCORPORATED, d/b/a  
15       PLAYERS, INC., a Virginia  
16       Corporation,

17                       Defendants

18       ~~~~~

19                       CONFIDENTIAL VIDEOTAPED DEPOSITION OF  
20                                       GENE UPSHAW

21                       Wednesday, February 13, 2008,

22                                       9:05 a.m.

23                       Manatt, Phelps & Phillips, LLP,

24                                       One Metro Center, Suite 1100

25                       700 12th Street, N.W., Washington, D.C.

Reported By:

Susan E. Smith, RPR, Notary Public

CONFIDENTIAL

Page 58

1 Q. Okay, fine. So directing your  
2 attention to the second page of Exhibit 117,  
3 it quotes you as follows. Well, in the first  
4 paragraph it says: Upshaw, sixty, who has  
5 been executive director of the NFLPA since  
6 1987, says he stands by his record and rejects  
7 a suggestion he's supposed to be the retirees'  
8 representative. "The bottom line is I don't  
9 work for them," he said. "They don't hire me  
10 and they can't fire me. They can complain  
11 about me all day long. They can have their  
12 opinion, but the active players have the vote.  
13 That's who pays my salary."

14 Did you say those words?

15 A. I said those words directed at one  
16 individual, Joe DeLamielleure.

17 Q. Then it continues quoting you in  
18 the next paragraph, it says: "They (retirees)  
19 say they don't have anybody in the  
20 (bargaining) room. Well, they don't and they  
21 never will. I'm the only one in that room.  
22 They're not in the bargaining unit. They  
23 don't even have a vote."

24 Did you say those words, sir?

25 A. Once again, those words are

Page 59

1 directed to one individual, Joe DeLamielleure.

2 Q. Did you say those words?

3 A. Yes.

4 Q. Okay.

5 MR. KATZ: Have the reporter mark as  
6 the next exhibit.

7 (Whereupon, Upshaw Deposition Exhibit  
8 No. 119, marked.)

9 Q. Is this a memorandum, sir, that  
10 you sent out in the regular course of your  
11 business on or around January 20, 2006?

12 A. Yes.

13 Q. And is it referring to the  
14 Charlotte Observer article which is Exhibit  
15 117?

16 A. Yes.

17 MR. KESSLER: Are you representing  
18 this as the complete document?

19 MR. KATZ: I'm not representing  
20 anything. I'm just asking questions.

21 Q. Is this the complete document,  
22 sir?

23 A. I'm not sure. I can't tell by  
24 this.

25 Q. Directing your attention to the

Page 60

1 first paragraph, it says: Much has been made  
2 -- well, the re line is: The Truth about  
3 Retiree Benefits. What were you referring to  
4 there, sir, when you say retiree benefits? To  
5 what benefits were you referring?

6 A. I was referring to the benefits  
7 that are in reference to the ones that are  
8 listed here on this page, and several others,  
9 but that was what I put here.

10 Q. The six bullet points?

11 A. Yes.

12 Q. These comments were made in  
13 response to several retired players' criticism  
14 of me and the NFLPA.

15 To which retired players are you  
16 referring there, sir?

17 A. The retired players that were  
18 mentioned in the Charlotte Observer article.

19 Q. So Joe Montana is one of them; is  
20 that right?

21 A. I received calls, I received  
22 e-mails at one point, I can't remember, from  
23 several players that were mentioned in the  
24 article who felt the same way as I did, Howie  
25 Long in particular, who pointed out, and so

Page 61

1 did Marcus Allen, that he knew that his quotes  
2 and comments were taken out of context, the  
3 same way as mine were taken out of context in  
4 this article. That was later. So when you  
5 say those players and you mentioned Joe  
6 Montana, they were quoted in the article.

7 Q. Right. So you're referring to the  
8 people who were mentioned in the article, the  
9 retired players who were mentioned in the  
10 article?

11 A. Yes.

12 Q. And that includes Howie Long,  
13 right?

14 A. Yes.

15 Q. And Joe Montana, right?

16 A. The people that are included in  
17 the article.

18 Q. Which includes Joe Montana; isn't  
19 that right?

20 A. Yes.

21 Q. And John Elway, isn't that right?  
22 You have to answer audibly.

23 A. Yes, they're in the article, all  
24 of the names that are there.

25 Q. All right. And in fact, you've

## CONFIDENTIAL

Page 166

## CERTIFICATE OF DEPONENT

I, GENE UPSHAW, deponent herein, do hereby certify and declare the within and foregoing transcription to be my deposition in said action; that I have read, corrected, and do hereby affix my signature to said deposition.

\_\_\_\_\_  
GENE UPSHAW

Subscribed and sworn to before me this  
day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

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## DEPOSITION ERRATA SHEET

RE: Paulson Reporting & Litigation Services  
File No. 7532  
Case Caption: BERNARD PAUL PARRISH, et al.  
Vs: NATIONAL FOOTBALL LEAGUE PLAYERS ASSOCIATION  
Deponent: GENE UPSHAW  
Deposition Date: February 13, 2008  
To the Reporter:  
I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me. I request that the following changes be entered upon the record for the reasons indicated. I have signed my name to the Errata Sheet and the appropriate Certificate and authorize you to attach both to the original transcript.

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Page 167

STATE OF MARYLAND ) ss  
COUNTY OF BALTIMORE)

I, Susan Smith, RPR, a Notary Public of the State of Maryland, do hereby certify that the within named, GENE UPSHAW personally appeared before me at the time and place herein set out, and after having been duly sworn by me, was interrogated by counsel.

I further certify that the examination was recorded stenographically by me, and this transcript is a true record of the proceedings.

I further certify that the stipulations contained herein were entered into by counsel in my presence.

I further certify that I am not of counsel to any of the parties, nor an employee of counsel, nor related to any of the parties, nor in anyway interested in the outcome of this action.

As witness my hand and notarial seal this 14th day of February, 2008.

My commission expires  
November 1, 2010

\_\_\_\_\_  
Susan E. Smith  
Notary Public

Page 169

Deposition of GENE UPSHAW

Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

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SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

\_\_\_\_\_  
GENE UPSHAW

# Exhibit D

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

BERNARD PAUL PARRISH, *et al.*,

Plaintiffs,

v.

NATIONAL FOOTBALL LEAGUE  
PLAYERS ASSOCIATION, *et al.*,

Defendants

Civil Action No. C07 0943 WHA

***Expert Report of Roger G. Noll***

My name is Roger G. Noll, and I reside in Palo Alto, California. My education includes a B. S. with honors in mathematics from the California Institute of Technology and a Ph. D. in economics from Harvard University. I am Professor *Emeritus* of Economics at Stanford University, a Senior Fellow in the Stanford Institute for Economic Policy Research (SIEPR), and Co-Director of the SIEPR Program in Regulatory Policy.

My primary area of scholarship is the field of industrial organization, which includes the economics of antitrust, regulation, and specific industries. I have taught these subjects at both the undergraduate and graduate level. I am the author, co-author or editor of thirteen books, and the author or co-author of over 300 articles. Much of my research for the past forty years has focused on the economics of sports. My *curriculum*

licensing monies kept by the NFLPA/NFLPI? How does it compare with other professional sports unions or third-party licensing entities? How does the percentage kept by the NFLPA/NFLPI compare to what is customary in sports licensing?”

Dr. Rascher’s answer begins by referencing his estimate in response to Question #2 that the players receive only between 31 and 36 percent of revenues. As shown above, this estimate is incorrect, under-estimating the fraction of licensing revenues that are disbursed to players by roughly half.

Dr. Rascher then presents several examples of licensing activities by organizations that use outside licensing agencies. According to Dr. Rascher, outside entities receive between 10 to 40 percent of gross licensing revenues. If this were a relevant measure, then the NFLPA/NFLPI would fall within the normal range as cited by Dr. Rascher. The answer then cites examples of organizations that use outside licensing: colleges and smaller leagues. Of course, these entities do not share revenues with players, and they are not unions. Dr. Rascher also reports that the U. S. Olympic Committee puts back 82.7 percent of its licensing income into training programs, grants, and other services. Again, this comparison attributes expenditures on behalf of athletes (training and services) as equivalent to direct payments (in the case of the USOC, grants); however, Dr. Rascher makes no similar provision for the NFLPA/NFLPI, which uses part of its share of the licensing revenues to deliver services to its members. Dr. Rascher errs by comparing only NFLPA/NFLPI disbursements to USOC disbursements plus services.

Dr. Rascher then offers an economic analysis of licensing. Dr. Rascher asserts that the cost of licensing agreements has strong economies of scale because the cost of negotiating a group license does not depend on the size of the group. Dr. Rascher does