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13 Attorneys for Plaintiffs

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT
16 SAN FRANCISCO DIVISION
17

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

21 Plaintiffs,

22 v.

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

26 Defendants.

CIVIL ACTION NO. C07 0943 WHA

**PLAINTIFFS' AMENDED PRE-TRIAL
DISCLOSURES PURSUANT TO FRCP
26(a)(3)**

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PLAINTIFFS' AMENDED
RULE 26(A)(3) DISCLOSURES
CASE NO. C:07-0943 WHA

Plaintiffs submit the following disclosures pursuant to Federal Rules of Civil Procedure 26(a)(3)(A)(i) and 26(a)(3)(A)(iii):

I. WITNESSES

A. Witnesses that Plaintiffs Expect to Present at Trial (Will Call)¹

Herbert Anthony Adderley, 1058 Tristram Circle, Mantua, NJ 08051; (856) 468-0773.

Plaintiffs expect Mr. Adderley to testify about his understanding of retired players' participation in Defendants' Retired Player Group licensing program, payments made under that program to retired players (if any) by NFLPA or Players Inc., communications with Defendants relating to the licensing program, and/or other matters relating to retired player group licensing.

Clifton A. McNeil, Jr., 1001 Westbury Drive, Mobile, AL 36609; (251) 454-7083.

Plaintiffs expect Mr. McNeil to testify about his understanding of retired players' participation in Defendants' Retired Player Group licensing program, payments made under that program to retired players (if any) by NFLPA or Players Inc., communications with Defendants relating to the licensing program, and/or other matters relating to retired player group licensing.

Walter Beach III, 2010 Winthrop Way, Macungie, PA 18062; (917) 838-4192.

Plaintiffs expect Mr. Beach to testify about his understanding of retired players' participation in Defendants' Retired Player Group licensing program, payments made under that program to retired players (if any) by NFLPA or Players Inc., communications with Defendants relating to the licensing program, and/or other matters relating to retired player group licensing.

Bruce A. Laird, 20 Stone Ridge Court, Baltimore, MD 21239; (443) 983-4690.

Plaintiffs expect Mr. Laird to testify about his understanding of retired players' participation in Defendants' Retired Player Group licensing program, payments made under that program to retired players (if any) by NFLPA or Players Inc., communications with Defendants relating to the licensing program, and/or other matters relating to retired player group licensing.

¹ Plaintiffs do not anticipate any of the witnesses identified in this section giving cumulative testimony.

1 **Joel Linzner, Esq.**, 516 Boulevard Way, Piedmont, CA 94610. Plaintiffs expect to
2 question Mr. Linzner about the agreements between Players Inc. and Electronic Arts relating to
3 licensing of NFL players, including the licensing of retired players, the Madden football games
4 produced by Electronic Arts for each year from 2002-2007, the inclusion of retired players in
5 Electronic Arts games and marketing, the payments made to Players Inc. for licensing royalties
6 due under the licensing agreements, and the knowledge of Electronic Arts and the witness
7 relating to retired player GLAs and retired player group licensing.

8 **Daniel A. Rascher, Ph.D.**, 5847 Heron Drive, Oakland, CA 94618; (510) 899-7197.
9 Plaintiffs expect to question this expert witness on issues relating to sports marketing, use of
10 retired players, the role of retired players in the shaping of modern football, whether the LM-2
11 documents submitted by Defendants to the United States Department of Labor accurately reflect
12 the licensing revenues received by Defendants or players, any distinction in the sports licensing
13 market between individual and group licensing, any added market power gained by Defendants
14 by representing both active and retired players, the reasonableness, percentage share, and
15 absolute size of Defendants' share of group licensing revenue, specifically compared with other
16 professional sports, and any other topics covered in any of Mr. Rascher's expert reports.

17 **Phillip Y. Rowley**, 148 Alamo Springs Drive, Alamo, CA 94526; (415) 572-7944.
18 Plaintiffs expect to question this expert witness on damages, including those topics addressed in
19 his expert reports.

20 **Doug Allen**, 54 North Gardner Street, Los Angeles, CA 90036. Plaintiffs expect to
21 question Mr. Allen on the formation and operations of Players Inc. and the NFLPA, the Retired
22 Player Group Licensing Program, the drafting and modification of the GLA sent to or signed by
23 retired NFL players, the license agreements with EA and other licensees, and the inclusion of
24 retired players in those agreements. Plaintiffs may additionally present a portion of Mr. Allen's
25 deposition testimony.

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1 Patricia Allen, 54 North Gardner Street, Los Angeles, CA 90036. Plaintiffs expect to
2 question Ms. Allen on the formation and operations of Players Inc. and the NFLPA, the Retired
3 Player Group Licensing Program, the drafting and modification of the GLA sent to or signed by
4 retired NFL players, the license agreements with EA and other licensees, and the inclusion of
5 retired players in those agreements. Plaintiffs may additionally present a portion of Ms. Allen's
6 deposition testimony.

7 Electronic Arts, Inc., 209 Redwood Shores Parkway, Redwood City, CA, 94065.
8 Plaintiffs expect to question a corporate representative of Electronic Arts regarding the Madden
9 football video games produced for each year between 2002 and 2007, including the authenticity
10 of copies of those games.

11 Jeremy Strauser, c/o Electronic Arts, Inc., 209 Redwood Shores Parkway, Redwood
12 City, CA, 94065. Plaintiffs expect to question Mr. Strauser about communications with Players
13 Inc. and/or the NFLPA, or employees thereof, related to the use of retired players and the
14 "scrambling" of retired players' identities.

15 Peter Rhee, c/o OSKR, 6425 Christie Avenue, Suite 230, Emeryville, CA 94608.
16 Plaintiffs expect to question Mr. Rhee on summaries related to various Madden football video
17 games.

18 Eugene Upshaw (by deposition). Plaintiffs may present segments of Mr. Upshaw's
19 deposition testimony that address the formation and operations of Players Inc. and the NFLPA,
20 the Retired Player Group Licensing Program, the drafting and modification of the GLA sent to or
21 signed by retired NFL players, the license agreements with EA and other licensees and the
22 inclusion of retired players in those agreements, and other topics covered in his deposition.

23 Joe Nahra c/o Dewey & LeBoeuf LLP, 1301 Avenue of the Americas, New York, NY
24 10019 (by deposition). Plaintiffs may present segments of Mr. Nahra's deposition testimony that
25 address the marketing and use of retired players by the NFLPA and Players Inc., negotiations
26 with Electronic Arts regarding the use of retired players, emails sent to Joe Nahra regarding the

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licensing of retired players, and other topics covered in his deposition.

1 **Warren Friss**, c/o Topps US, One Whitehall Street, New York, NY 10004; (212)
2 376-0300 (by deposition). Plaintiffs may present segments of Mr. Friss's deposition testimony
3 that address agreements between Topps and Players Inc., the inclusion of retired players in the
4 products offered by Topps, the payments made by Topps to Players Inc. pursuant to the license
5 agreements, the knowledge of the witness and Topps regarding GLAs signed by retired players,
6 and other topics covered in his deposition.

7 **Glenn M. Eyrich**, 210 Holmard Street, Gaithersburg, MD 20878 (by deposition).
8 Plaintiffs may present segments of Mr. Eyrich's deposition testimony that address the Licensing
9 Revenue Depository Account and the "equal share" payment made to active members of the
10 NFLPA , the receipt and calculation of licensing revenue, the payment of such revenue to Players
11 Inc., the NFLPA, and active and retired players.

12 **Adam Zucker**, c/o Ingram Yuzek Gainen Carroll & Bertolotti, LLP, 250 Park Ave., New
13 York, New York, 10177 (by deposition). Plaintiffs may present segments of Mr. Zucker's
14 deposition testimony that address agreements between Topps and Players Inc., the inclusion of
15 retired players in the products offered by Topps, the payments made by Topps to Players Inc.
16 pursuant to the license agreements, the knowledge of the witness and Topps regarding GLAs
17 signed by retired players, and other topics covered in his deposition.

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19 **B. Witnesses Who Plaintiffs May Call if the Need Arises**

20 **Richard Berthelsen**, c/o Dewey & LeBoeuf LLP, 1301 Avenue of the Americas, New
21 York, NY 10019 (by deposition). Plaintiffs may present segments of Mr. Berthelsen's deposition
22 testimony that address his experiences with the operation and functions of NFLPA and Players
23 Inc., and other topics covered in his deposition.

24 **Howard Skall**, 18524 Rushbrooke Drive, Olney, MD 20832 (by deposition). Plaintiffs
25 may present segments of Mr. Skall's deposition testimony that address his experiences with the
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operation and functions of NFLPA and Players Inc., and other topics covered in his deposition.

1 **Steve Saxon**, c/o Dewey & LeBoeuf LLP, 1301 Avenue of the Americas, New York, NY
2 10019. Plaintiffs may question Mr. Saxon on topics related to Defendants' LM-2s and license
3 agreements, and other topics covered in his deposition. Plaintiffs may additionally or
4 alternatively present a portion of Mr. Saxon's deposition testimony.

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6 **II. EXHIBITS**

7 Plaintiffs have attached, as exhibit A, a table of exhibits that Plaintiffs expect to use and
8 may use at the trial in this matter.

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11 Dated: October 7, 2008

Respectfully submitted,

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LOS ANGELES

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