

# **EXHIBIT 4**

**Case No. C 07 0943 WHA**

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

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In The Matter Of

BERNARD PAUL PARRISH, HERBERT :  
ANTHONY ADDERLEY, WALTER :  
ROBERTS III, :  
Plaintiffs :

-v-

NATIONAL FOOTBALL LEAGUE :  
PLAYERS ASSOCIATION and :  
NATIONAL FOOTBALL LEAGUE :  
PLAYERS INCORPORATED d/b/a/ :  
PLAYERS INC, :  
Defendants :

SUPPLEMENTAL REPORT OF  
DANIEL A. RASCHER

This report is submitted pursuant to Federal Rule of Civil Procedure 26(e)(2) and this Court's standing orders for the purpose of identifying additional material identified since the filing of my previous reports and/or deposition.<sup>1</sup> I have previously submitted two expert reports, one on May 23 ("Expert Report") and a reply report ("Reply Report") on July 26, and identified the materials on which I relied for the opinions expressed in those reports. Since then, I have identified sources that provide additional support for my previously stated opinions. This supplemental report identifies those sources, which are also documented in Appendix A.

<sup>1</sup> My understanding of this rule is that any additions or changes to the information an expert relied upon in an expert report or during deposition must be disclosed by the time the party's pretrial disclosures under Rule 26(a)(3) are due. Counsel informs me that this deadline has been extended to August 27, 2008.

1 First, since I filed my two expert reports, I performed an econometric analysis based on data  
2 which I had previously used in my academic work showing the relationship between past Super Bowl  
3 victories and team's licensing rankings. This analysis (along with the supporting materials) was  
4 disclosed prior to my deposition, and I was asked questions about it and its underlying sources by  
5 Defendants' counsel during my deposition.

6 Second, I have been provided with a summary exhibit of 581 class members whose names and  
7 numbers do not appear in the Madden 2007, but for whom a near-substitute (un-named players with  
8 virtually the same height, weight, years of service, team, and position) is included in the game. I  
9 did not prepare this list, but I have reviewed the list generally for accuracy. I have also reviewed  
10 the underlying materials that were used to create it, including (i) the 2007 Madden Game for the  
11 PC; (ii) the retired player GLAs produced by Defendants in this case and (iii) several books used for  
12 statistical reference: (a) the ESPN Pro Football Encyclopedia (second edition),<sup>2</sup> and Total Football  
13 II: The Official Encyclopedia of the National Football League.<sup>3</sup> I rely upon this list to the extent  
14 that it supports and expands on the points raised in my Expert Report and in that section of my  
15 Reply Report in which I referenced sixteen such players with near-substitutes included in the game.<sup>4</sup>  
16 The list provides further support for my opinion that retired players' identities (or, in the case of

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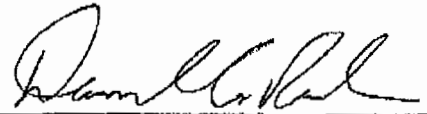
12  
13 <sup>2</sup> Pete Palmer is recognized as an accepted authority in the sports industry and his books, including, The ESPN Pro  
14 Football Encyclopedia, are cited to by peer-reviewed economics and business literature. I have spoken with Doug  
15 Drinen, the person responsible for the [www.pro-football-reference.com](http://www.pro-football-reference.com) website, a website relied on in my July 26<sup>th</sup>  
16 report, and he confirmed that the statistical information on his website was taken directly from the ESPN Pro Football  
17 Encyclopedia.

18 <sup>3</sup> Total Football II: The Official Encyclopedia of the National Football League., Matthew Silverman (Managing Editor),  
19 edited by Bob Carroll, Michael Gershan, David Nofi, John Thorn, and the Elias Sports Bureau. HarperCollins  
20 Publishers, 1999. This encyclopedia relies on work by the Elias Sports Bureau, as well as archival research in  
hundreds of libraries. Moreover, Jim Gigliotti of NFL Properties "cycbaled every word" (page vii) and the National  
Football League was "an active participant in its creation." (page 1).

<sup>4</sup> See Expert Report at 4-5; Reply Report at 13-15, footnote 37.

1 Madden 2007, near-identities) have value, including with respect to products such as football video  
2 games.

3 Respectfully submitted this 27th day of August, 2008,

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6 Daniel A. Rascher, Ph.D.

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**PROOF OF SERVICE**

I, Donna L. Wishon, 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 94304-1006. On August 27, 2008, I served the following documents:

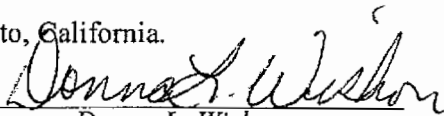
1. **Supplemental Report of Daniel A. Rascher**

- 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 overnight 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 Wetzal, Esq. Weil, Gotshal & Manges, LLP 201 Redwood Shores Parkway Redwood Shores, CA 94065 Email: bruce.meyer@weil.com; Joseph.Wetzal@weil.com
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 27, 2008, at Palo Alto, California.

  
 Donna L. Wishon

## Appendix A: Documents Considered (Supplemental)

### LITERATURE

Carroll, B., Gershman, M., Neft, D., Thorn, J., and the Elias Sports Bureau. Total Football II: The Official Encyclopedia of the National Football League., Matthew Silverman (Managing Editor), HarperCollins Publishers, 1999.

Palmer, P., Pullis, K., Lahman, S., Maher, T., Silverman, M., Gillette, G., The ESPN Pro Football Encyclopedia Second Edition., Sterling Publishing, 2007.

### DATA

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