| <ul> <li>v.</li> <li>NATIONAL FOOTBALL LEAGUE</li> <li>PLAYERS ASSOCIATION and NATIONAL</li> <li>FOOTBALL LEAGUE PLAYERS</li> <li>INCORPORATED d/b/a/ PLAYERS INC,</li> <li>Defendants.</li> </ul> | Dewey & LeBoeuf LLP<br>One Embarcadero Center, Suite 400<br>San Francisco, CA 94111 | 25<br>26<br>27 | NATIONAL FOOTBALL LEAGUE<br>PLAYERS ASSOCIATION and NATIONAL<br>FOOTBALL LEAGUE PLAYERS<br>INCORPORATED d/b/a/ PLAYERS INC,<br>Defendants. | d/b/a Players Inc<br>STRICT COURT<br>C OF CALIFORNIA<br>O DIVISION<br>Case No. C 07 0943 WHA<br>DEFENDANTS' MISCELLANEOUS<br>ADMINISTRATIVE MOTION TO<br>FILE UNDER SEAL |
|--|---|----------------|--|--|
| Defs.' Misc. Admin. Mot. To File Under Seal Civ. Action No. C07 0943 WHA   |   |                | Defs.' Misc. Admin. Mot. To File Under Seal  | Civ. Action No. C07 0943 WHA   |

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and Civil Local Rules 79-5(d) and 7-11, Defendants National Football League Players Association ("NFLPA") and National Football League Players Incorporated ("Players Inc") hereby request to file under seal Exhibit 1 and 2 to the Declaration of Jason Clark in Support of Defendants' Motion in Limine No. 4, and Exhibits 1, 3, and 4 to the Declaration of Jason Clark in Support of Defendants' Motion in Limine No. 5. These Exhibits include documents designated by Defendants as "Confidential" or "Highly Confidential -- Attorneys' Eyes Only."

<sup>8</sup> Defendants submit that this Motion is narrowly tailored to respect the parties'
<sup>9</sup> confidentiality designations under the Protective Order in this action. Pursuant to Civil L.R. 7<sup>10</sup> 12, counsel for Defendants met and conferred with counsel for Plaintiffs regarding Defendants'
<sup>11</sup> Miscellaneous Administrative Motion to File Under Seal. Counsel for Plaintiffs did not agree to
<sup>12</sup> Defendants' request to join in this Motion. See Declaration of Roy Taub ¶ 2.

## **MEMORANDUM**

Pursuant to Civil L.R. 79-5, Defendants proffer the following showing of good cause in support of their request to file under seal.

16 Exhibits 1 and 2 to the Declaration of Jason Clark in Support of Defendants' 17 Motion in Limine No. 4 and Exhibits 1, 3, and 4 to the Declaration of Jason Clark in Support of 18 Defendants' Motion in Limine No. 5 are reports prepared by experts retained by the parties in 19 this matter, and contain highly-confidential information regarding Defendants' financial accounts 20 and licensing business, including, among other things, detailed listings of revenues received by 21 Defendants from dozens of individual licensees over multiple years, detailed listings of licensing 22 revenues distributed to hundreds of individual active players over multiple years, detailed 23 financial summaries of Defendants' licensing business, and detailed financial summaries of 24 revenues distributed to active and retired players.

These are non-public documents that contain confidential information and trade
secrets, public disclosure of which would seriously harm Defendants and their non-party
licensees. See Declaration of Gene Upshaw ¶ 2-4 (Rec. Doc. 187) (Nov. 21, 2007) ("Upshaw
Decl."). These documents are confidential for the same reasons that the Court previously found

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|   | 1              | good cause to file other documents relating to Defendants' licensing business under seal. See  |  |
|---|----------------|--|--|
| Dewey & LeBoeuf LLP<br>One Embarcadero Center, Suite 400<br>San Francisco, CA 94111 | 2              | Order Sealing Confidential Documents (Rec. Doc. 144) (Oct. 3, 2007); Order Granting Mot. to  |  |
|   | 3              | File Docs. Under Seal (Rec. Doc. 159) (Oct. 15, 2007); Order Granting Defs.' Misc. Admin.  |  |
|   | 4              | Mot. to File Under Seal Certain Confidential Information Filed by Pls. (Rec. Doc. 188) (Nov. 26,   |  |
|   | 5              | 2007); Order Granting Defs.' Misc. Admin. Mot. to File Under Seal, (Rec. Doc. 226) (Mar. 24,   |  |
|   | 6              | 2008); Order Granting in Part and Denying in Part Mots. to Seal (Rec. Doc. 255) (April 7, 2008);   |  |
|   | 7              | Upshaw Decl. ¶¶ 7-8. They should be filed under seal because they contain such commercially  |  |
|   | 8              | and competitively sensitive business information related to Defendants' and third-party  |  |
|   | 9              | licensees' licensing business.   |  |
|   | 10             | Public disclosure of these agreements would reveal to Defendants' competitors,   |  |
|   | 11             | counter-contracting parties, and potential counter-contracting parties detailed financial  |  |
|   | 12             | information relating to the operations of Defendants' licensing businesses and contractual   |  |
|   | 13             | arrangements with third parties. Such information could cause these entities to change their   |  |
|   | 14             | business behavior to Defendants' commercial disadvantage. See Upshaw Decl. ¶¶ 7-8.   |  |
|   | 15             | Accordingly, there is good cause to file these documents under seal. <sup>1</sup>  |  |
|   | 16             | CONCLUSION   |  |
|   | 17             | For the reasons stated above, Defendants respectfully request that this Court grant  |  |
|   | 18             | this Miscellaneous Administrative Motion to File under Seal.   |  |
|   | 19             | Date: October 8, 2008 DEWEY & LEBOEUF LLP  |  |
|   | 20             | By:/S/ David G. Feher  |  |
|   | 21             | David G. Feher   |  |
|   | 22             | Attorneys for Defendants   |  |
|   | 23             | <sup>1</sup> <u>See Cal. Serv. Employees Health &amp; Welfare Trust Fund v. Advance Bldg. Maint.</u> , No. C06-  |  |
|   | 24             |  |  |
|   | 24             | 3078 CW (BZ), 2007 WL 2669823, at *1-2 (N.D. Cal. Sept. 7, 2007) (protecting information   |  |
|   | 24<br>25       | 3078 CW (BZ), 2007 WL 2669823, at *1-2 (N.D. Cal. Sept. 7, 2007) (protecting information relating to defendant's accounts receivables and outgoing payments as trade secrets that could provide its competitors advantages in the marketplace); <u>Navarro v. Eskanos &amp; Adler, et al.</u> , No.  |  |
|   |                | 3078 CW (BZ), 2007 WL 2669823, at *1-2 (N.D. Cal. Sept. 7, 2007) (protecting information relating to defendant's accounts receivables and outgoing payments as trade secrets that could provide its competitors advantages in the marketplace); <u>Navarro v. Eskanos &amp; Adler, et al.</u> , No. C-06-02231 WHA (EDL), 2007 U.S. Dist. LEXIS 24864, at *16-17 (N.D. Cal. March 22, 2007) (protecting information that reveals the ways in which a party runs its business and thereby   |  |
|   | 25             | 3078 CW (BZ), 2007 WL 2669823, at *1-2 (N.D. Cal. Sept. 7, 2007) (protecting information relating to defendant's accounts receivables and outgoing payments as trade secrets that could provide its competitors advantages in the marketplace); <u>Navarro v. Eskanos &amp; Adler, et al.</u> , No. C-06-02231 WHA (EDL), 2007 U.S. Dist. LEXIS 24864, at *16-17 (N.D. Cal. March 22, 2007) (protecting information that reveals the ways in which a party runs its business and thereby maintains its competitive advantage); <u>Reilly v. MediaNews Group Inc.</u> , No. C 06-04332 SI, 2007 WL 196682, at *4, 14 (N.D. Cal. Jan. 24, 2007) (filing under seal information regarding financial   |  |
|   | 25<br>26       | 3078 CW (BZ), 2007 WL 2669823, at *1-2 (N.D. Cal. Sept. 7, 2007) (protecting information relating to defendant's accounts receivables and outgoing payments as trade secrets that could provide its competitors advantages in the marketplace); <u>Navarro v. Eskanos &amp; Adler, et al.</u> , No. C-06-02231 WHA (EDL), 2007 U.S. Dist. LEXIS 24864, at *16-17 (N.D. Cal. March 22, 2007) (protecting information that reveals the ways in which a party runs its business and thereby maintains its competitive advantage); <u>Reilly v. MediaNews Group Inc.</u> , No. C 06-04332 SI, 2007   |  |
|   | 25<br>26<br>27 | 3078 CW (BZ), 2007 WL 2669823, at *1-2 (N.D. Cal. Sept. 7, 2007) (protecting information relating to defendant's accounts receivables and outgoing payments as trade secrets that could provide its competitors advantages in the marketplace); <u>Navarro v. Eskanos &amp; Adler, et al.</u> , No. C-06-02231 WHA (EDL), 2007 U.S. Dist. LEXIS 24864, at *16-17 (N.D. Cal. March 22, 2007) (protecting information that reveals the ways in which a party runs its business and thereby maintains its competitive advantage); <u>Reilly v. MediaNews Group Inc.</u> , No. C 06-04332 SI, 2007 WL 196682, at *4, 14 (N.D. Cal. Jan. 24, 2007) (filing under seal information regarding financial information, including past and present revenues because it might affect future business dealings). |  |
|   | 25<br>26<br>27 | 3078 CW (BZ), 2007 WL 2669823, at *1-2 (N.D. Cal. Sept. 7, 2007) (protecting information relating to defendant's accounts receivables and outgoing payments as trade secrets that could provide its competitors advantages in the marketplace); <u>Navarro v. Eskanos &amp; Adler, et al.</u> , No. C-06-02231 WHA (EDL), 2007 U.S. Dist. LEXIS 24864, at *16-17 (N.D. Cal. March 22, 2007) (protecting information that reveals the ways in which a party runs its business and thereby maintains its competitive advantage); <u>Reilly v. MediaNews Group Inc.</u> , No. C 06-04332 SI, 2007 WL 196682, at *4, 14 (N.D. Cal. Jan. 24, 2007) (filing under seal information regarding financial information, including past and present revenues because it might affect future business dealings). |  |