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12 *Attorneys for Plaintiffs*

13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT  
 15 SAN FRANCISCO DIVISION

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

19 Plaintiffs,

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

25 Defendants.

CIVIL ACTION NO. C07 0943 WHA

**PLAINTIFFS' MOTION IN LIMINE NO. 9,  
 REQUESTING EXCLUSION OF EVIDENCE  
 AND ARGUMENT RELATING TO THE  
 JUSTIN V. PLAYERS INC. LAWSUIT.**

Judge: Honorable William H. Alsup  
 Date: October 15, 2008, 2:00 p.m.  
 Place: Courtroom 9, 19th Floor

1 **I. The Court Should Exclude Any Evidence, Testimony, Argument or Reference to the**  
2 **Justin v. Players Inc. Lawsuit.**

3 On April 4, 2003, Johnnie L. Cochran, Jr., along with the law firm of Mehri & Skalet,  
4 filed a lawsuit on behalf of a putative class of retired players against Players Inc styled *Justin v.*  
5 *Players Inc.* (the "Justin Lawsuit"). In the Justin Lawsuit, the plaintiffs alleged, *inter alia*, that  
6 Players Inc. had not provided the putative class with sufficient information to determine the scope  
7 and terms of the licensing agreements, and had thus breached its fiduciary duty toward the class.  
8 In the context of that litigation, Cyrus Mehri and Mr. Cochran sent a letter to Players Inc.  
9 explaining how retired players were not receiving enough information to evaluate their  
10 entitlement to royalties from Players Inc.  
11

12 Defendants have not presented Plaintiffs with any documents that indicate that the  
13 putative class in the Justin Lawsuit was certified, or that any of the named plaintiffs in the Justin  
14 Lawsuit litigated his claims to conclusion. As a result, the Justin Lawsuit is not probative to the  
15 remaining claims at issue here, as that Lawsuit does not provide any evidence that makes it more  
16 or less likely that Defendants breached any contracts or fiduciary duties owed to the Plaintiff  
17 class.  
18

19 Evidence of the Justin Lawsuit, however, would be confusing to the jury. Upon hearing  
20 of the Justin Lawsuit, many jurors would wonder whether the respective classes contain the same  
21 members, and/or whether Plaintiffs' decision to file the instant litigation was in any way  
22 influenced by the prior Lawsuit. The jury might also wonder whether any of the agreements at  
23 issue in the Justin Lawsuit are also at here.  
24

25 Evidence of the Justin Lawsuit is also unfairly prejudicial. The fact that the Justin  
26 Lawsuit was filed, and not concluded in those plaintiffs' favor, may raise an inference that  
27 Players Inc. has not, in fact, breached any duties toward retired players. There is no evidence,  
28

1 however, that this lawsuit referenced or disposed of any of the instant breach of contract claims  
2 related to the GLAs, or any breaches of fiduciary duties associated with those GLAs. Plaintiffs  
3 expect that Defendants could try to elicit testimony of the Justin Lawsuit to raise the inference  
4 that the issues in the instant lawsuit have already been decided in Defendants' favor.  
5

6 As any probative value of introducing evidence related to the Justin Lawsuit is  
7 substantially outweighed by its prejudicial effects, the Court should exclude any evidence,  
8 testimony, argument, or reference to the Justin Lawsuit under Rule 403. *See Rondor Music Int'l,*  
9 *Inc. v. TVT Records LLC*, No. 05-2909, 2006 U.S. Dist. LEXIS 97118, at \*27-29 (C.D. Cal. Aug.  
10 21, 2006) (excluding reference to Defendant's prior successful lawsuit).  
11

## 12 II. Conclusion

13 Plaintiffs respectfully request that the Court grant its Motions in Limine.

14 Respectfully submitted,

15 Dated: October 8, 2008

MANATT, PHELPS & PHILLIPS, LLP

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and National Football League Players Incorporated d/b/a Players Inc  
18

19 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
20 **SAN FRANCISCO DIVISION**

21 BERNARD PAUL PARRISH, HERBERT  
ANTHONY ADDERLEY, WALTER  
22 ROBERTS III,

23 Plaintiffs,

24 v.

25 NATIONAL FOOTBALL LEAGUE  
PLAYERS ASSOCIATION and NATIONAL  
26 FOOTBALL LEAGUE PLAYERS  
INCORPORATED d/b/a/ PLAYERS INC,

27 Defendants.  
28

Case No. C 07 0943 WHA

**DEFENDANTS' OPPOSITION TO  
PLAINTIFFS' MOTION IN LIMINE  
NO. 9**

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**ARGUMENT**

In their Motion in Limine No. 9, Plaintiffs seek to exclude evidence at trial about a prior lawsuit captioned Justin v. Players Inc, which was filed against Players Inc in 2003 by a putative class of retired players concerning the conduct of the NFLPA Retired Players Licensing Program, but subsequently dropped after the NFLPA provided the retired players with additional information concerning the program. Defendants do not oppose Plaintiffs' Motion, but only if Plaintiffs are precluded from referring to the case themselves, or making any reference to the NFLPA or Players Inc allegedly being unresponsive to any retired player complaints about the Retired Player Licensing Program. Defendants have no plan to refer to the Justin case, but Defendants also should not be precluded from defending themselves fully if Plaintiffs open the door.

Because this motion depends upon Plaintiffs' conduct at trial, Defendants respectfully request the motion be denied as premature.

Date: October 8, 2008

DEWEY & LEBOEUF LLP

BY: /s/ Jeffrey L. Kessler  
Jeffrey L. Kessler  
*Attorneys for Defendants*