

Exhibit N
to the Joint Pretrial Order

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16
17 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
18 **SAN FRANCISCO DIVISION**

19 BERNARD PAUL PARRISH, and
20 HERBERT ANTHONY ADDERLEY, on
behalf of themselves and all others similarly
21 situated,

22 Plaintiffs,

23 vs.

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

27 Defendants.
28

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CIVIL ACTION NO. C 07 0943 WHA

[PROPOSED] JOINT VOIR DIRE

1 The parties hereby submit the following list of additional *voir dire* questions pursuant
2 to the Court's Guidelines for Trial and Final Pretrial Conference in Civil Jury Cases. We
3 respectfully request that the Court ask these questions in addition to the questions asked by
4 the Court, and please provide assurance that anyone who wishes to respond to any questions
5 privately, rather than in open court, may do so if they request to do so.

6 The parties also submit a proposed jury questionnaire should the Court determine that
7 such a questionnaire is advisable (attached to the Proposed Joint Final Pretrial Order as
8 Exhibit D). Should the Court decide that it will use the proposed jury questionnaire,
9 additional *voir dire* questions are identified in Part I. The parties believe that it will be more
10 efficient to use a jury questionnaire for certain information, however, should the court decide
11 not to use the proposed jury questionnaire, additional proposed *voir dire* questions are
12 identified in Part II.

13 **I. *VOIR DIRE* IF A JURY QUESTIONNAIRE IS ALSO UTILIZED**

14 **A. Stipulated *Voir Dire* Questions**

- 15 1. This case concerns a contract dispute.
- 16 a. Has anyone here had any experience with contracts? If so, please explain.
- 17 b. How well did the contract language reflect your wishes?
- 18 c. Were you satisfied with how the terms of the contract were honored?
- 19 d. How comfortable are you with considering the intent of a contract between
- 20 different parties, not just the written words of the contract?
- 21 2. Please raise your hand if you have any training or experience in any of the following
- 22 areas:
- 23 a. Negotiating contracts.
- 24 b. Interpreting contracts.
- 25 c. Enforcing contracts.
- 26 3. If English is not your native language, please raise your hand if you have any concerns
- 27 or are unsure about hearing or reading evidence and legal instructions in English.
- 28 4. Please raise your hand if you own your current residence.

- 1 5. Is anyone here the parent or legal guardian of a young child? Would it be a hardship
2 to participate in a trial expected to last two to three weeks?
- 3 6. This case involves a dispute brought by attorneys on behalf of some retired
4 individuals against their labor union. Does anyone have strong opinions about retired
5 members suing their labor union?
- 6 7. The Defendants in this case are the NFL Players Association, the retired players'
7 union, and Players Inc., a privately owned, for-profit corporation.
- 8 a. Does anyone work for an employer with financial ties to the NFL, the NFL
9 Players Association, or Players, Inc., or do you know anyone who does? If so,
10 please raise your hand and explain.
- 11 b. Does anyone work for an employer that does business with the NFL, the NFL
12 Players Association, Players Inc., the Topps or Upper Deck trading card
13 companies, or EA, also known as Electronic Arts?
- 14 c. Does anyone have strong opinions about retired professional football players?
15 8. Current as well as former NFL football players may testify in this case whom you may
16 or may not have heard of before trial. Please raise your hand if you might be inclined
17 to any different weight, either more or less, to a star player as a witness. If so, please
18 explain.
- 19 9. One of the executives for Defendants in this case, Gene Upshaw, the former head of
20 the NFL Players Association and Players Inc., died before trial. His testimony,
21 therefore, will be presented by videotape of his sworn deposition and his prior spoken
22 and written statements.
- 23 a. Would Gene Upshaw's death or his absence at trial influence your reaction to
24 this case in any way, or cause you to favor either side of this case in any way?
25 If so, please explain how and why. Would you give any less weight to the
26 retired players' case because their attorneys cannot cross examine Mr. Upshaw
27 or the NFL Players Association and Players Inc's case because they cannot ask
28 for explanation from Mr. Upshaw?

1 b. Can you think of any way that sympathy over his death might influence your
2 views in this case? If so, please explain.

3 10. Have you heard anything about this dispute? Have you heard any of the evidence?
4 Have you heard from any of the witnesses?

5 **B. *Voir Dire* Questions Proposed By Plaintiffs But Disputed By Defendants**

6 1. Would anyone here be uncomfortable finding against a union for any reason?

7 2. Would you be more inclined to forgive the conduct Plaintiffs allege against
8 Defendants, especially Mr. Upshaw's, due to any sympathies you may have in light of
9 his death?

10 3. When someone dies, some people only want to focus on the good things that the
11 deceased person did. That is understandable, and Plaintiffs understand that as well.
12 A key witness in this case, Gene Upshaw, recently died. As part of their case,
13 Plaintiffs will criticize and attack Gene Upshaw's conduct and statements to prove
14 their case. Please raise your hand if that would make you uncomfortable in any way,
15 or you would react negatively to that, or that might trouble you for any reason. In
16 other words, if you might hold it against the Plaintiffs in light of the fact that Gene
17 Upshaw recently died, please raise your hand.

18 4. Before heading the NFLPA and Players Inc., Mr. Upshaw was also an NFL player.
19 Please raise your hand if that might make it difficult for you to hear the Plaintiffs
20 criticize him in light of his prior NFL star status.

21 a. Have you heard or seen anything lately in the media that relates to Gene
22 Upshaw, whether television, radio, or on the internet? If so, please explain
23 what it was and what impression, if any, it made on you.

24 5. This case involves events that began more than 30 years ago.

25 a. Would anyone here have difficulty understanding that people had different
26 attitudes and different levels of knowledge about a lot of things 40, 30, and
27 even 20 years ago? For example, if I asked you to think about the differences
28 in attitudes, beliefs, and values in the 1960s versus current attitudes and

1 beliefs, how difficult would you find that to be?
2 6. If you were the retired NFL players, would you be completely comfortable having you
3 as a juror in this case? If not, please explain.

4 **C. *Voir Dire* Questions Proposed By Defendants But Disputed By Plaintiffs**

- 5 1. Have you attended an NFL game in the past five years?
6 2. Have you ever owned season tickets for an NFL football team? If yes, for which
7 teams have you owned NFL season tickets?
8 3. During the football season, do you plan your weekend activities so you will have time
9 to watch NFL football on TV? If yes, what are your favorite teams?
10 4. Have you, or any close relative, ever accused or sued a person or company for
11 breaking a contract or agreement?

12 **II. ADDITIONAL *VOIR DIRE* QUESTIONS IF THE PROPOSED JURY
13 QUESTIONNAIRE IS NOT UTILIZED**

14 **A. Stipulated *Voir Dire* Questions**

15 In the event the Court does not choose to issue a written jury questionnaire, the parties
16 respectfully request that the Court ask the following additional questions during *voir dire*.

- 17 1. What is your full name?
18 2. What is your age?
19 3. Where were you born (city or country, if outside the U.S.)? Where was your father
20 born? Where was your mother born?
21 4. What languages do you speak?
22 5. What is the highest level of education you had the opportunity to complete (with
23 major and field of study)?
24 6. What is your current marital status?
25 7. Do you have children? If yes, please tell us the age, gender, occupation and employer,
26 or grade level for each child.
27 8. Have you suffered the death of a loved one in the past two years?
28 9. What is your current employment status?
10. Who is your current employer (if not currently employed, who was your most recent

- 1 employer)?
- 2 11. What is your occupation and job title (if not currently employed, what was your most
- 3 recent occupation)?
- 4 12. What are your job responsibilities and what do you do at work (if not currently
- 5 employed, what did you do at your most recent job)?
- 6 13. If you are married or have a significant other, what is their occupation and job title (if
- 7 not currently employed, what was their most recent occupation)?
- 8 14. If you have adult children, what is their occupation and job title (if not currently
- 9 employed, what was their most recent occupation)?
- 10 15. Please raise your hand if you ever worked for a company that did any of the
- 11 following:
- 12 a. Had a reduction in force.
- 13 b. Outsourced work or sent work off-shore.
- 14 c. Made major changes to its employee health benefits.
- 15 16. Please describe your work history for the past 10 years (job title, employer, work
- 16 duties).
- 17 a. Do you work full time, part time, or are you retired/disabled/unemployed or a
- 18 student?
- 19 b. Do you work for a company or for yourself?
- 20 c. If you are retired, please describe the last 10 years of your work history (job
- 21 title, employer, work duties, how work was performed - alone or with one or
- 22 several coworkers).
- 23 d. Do you have any training or work experience in personnel, HR, bookkeeping,
- 24 accounting, tax, contracts, engineering, law, college sports or professional
- 25 sports? If so, please explain your training or experience.
- 26 e. Have you ever had responsibilities involving compliance with government
- 27 employment or EEOC regulations, workplace standards, or worker or
- 28 workplace safety? If so, please describe.

- 1 f. How long have you worked for your current employer? How large a company
2 is it?
- 3 g. Have you ever worked for a company that had layoffs due to downsizing or
4 changes in the business?
- 5 17. What organizations or associations have been a member of? Are you an officer or
6 leader in any of these organizations/associations?
- 7 18. What are your leisure activities?
- 8 a. Is anyone in your family on a sports team? Do you regularly attend games?
- 9 b. Do you participate in any community services? If so, please describe.
- 10 c. Would jury service conflict with any of your planned activities?
- 11 d. What types of programs do you watch on TV, and what is your typical source
12 for news?
- 13 e. How much time do you spend on the Internet each week?
- 14 f. What types of books or magazines do you read on a regular basis?
- 15 g. If you subscribe to or regularly read newspapers, what sections do you
16 typically read?
- 17 19. What hobbies or recreational activities do you enjoy?
- 18 20. This trial is expected to last for approximately ___ days. Please raise your hand if
19 jury service for this period of time would conflict with any of your planned activities.
- 20 21. Are you a member of a union? If yes, which union(s) do you belong to and how long
21 have you been a member?
- 22 22. Is any member of your family a union member? If yes, which union(s) do they belong
23 to and how long have they been members?
- 24 23. Please raise your hand if someone else has ever represented you in business. Please
25 explain who and whether or not you were satisfied with that representation.
- 26 24. How frequently have you been a group leader? Very frequently? Often?
27 Occasionally? Never?
- 28 25. Have you or a family member ever owned or run a business? If yes, please describe.

- 1 26. Are you a dedicated fan of professional football?
- 2 27. What opinions or feelings, if any, do you have about professional football?
- 3 28. How would you assess the pros and cons of professional football as a career?
- 4 29. Do you have any opinions about the current situation of the San Francisco 49ers? If
5 yes, what are your opinions about the 49ers?
- 6 30. Do you have any opinions about the current situation of the Oakland Raiders? If yes,
7 what are your opinions about the Oakland Raiders?
- 8 31. Do you have any opinions about active or retired NFL players? If yes, please explain.
9
- 10 32. Do you regularly play video sports games such as Madden football? If yes, what are
11 your opinions, if any, about video sports games?
- 12 33. About how many hours a week, if any, do you spend on the internet?
- 13 34. Have you ever heard of the recently deceased Gene Upshaw, former professional
14 football players, executive director of the NFLPA, and chairman of Players Inc? If
15 yes, please describe your opinion of him, whether as a player or union executive.
- 16 35. Would you be uncomfortable with the notion of discussing and even criticizing Mr.
17 Upshaw after his death, for his prior conduct as executive director of the NFL union?
- 18 36. Please raise your hand if you, or a close relative, have ever sued anyone or been sued
19 by anyone. If so, please explain.
- 20 37. Please raise your hand if you have ever filed any of the following types of claims:
- 21 a. Bankruptcy
- 22 b. Small claims
- 23 c. Disability
- 24 d. Employment action
- 25 e. Workers' compensation
- 26 38. Has anyone here had any previous jury service either in a civil or criminal trial? What
27 type of case? Were you the foreperson?
- 28 39. Please raise your hand if you are not confident that you could completely follow the

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law in judging this case if it is different from your personal values or beliefs.

Respectfully submitted,

Dated: _____, 2008

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Attorneys for Defendants

IT IS SO ORDERED.

Dated: _____

HON. WILLIAM H. ALSUP

United States District Court Judge