1 2 3 4 5 6 7 8 9 10	MANATT, PHELPS & PHILLIPS, LLP RONALD S. KATZ (Bar No. CA 085713) E-mail: rkatz@manatt.com RYAN S. HILBERT (California Bar No. 210 E-mail: rhilbert@manatt.com NOEL S. COHEN (California Bar No. 21964 E-mail: ncohen@manatt.com 1001 Page Mill Road, Building 2 Palo Alto, CA 94304-1006 Telephone: (650) 812-1300 Facsimile: (650) 213-0260  MCKOOL SMITH, P.C. LEWIS T. LECLAIR (Bar No. CA 077136) E-mail: lleclair@mckoolsmith.com JILL ADLER NAYLOR (Bar No. CA 15078 E-mail: jnaylor@mckoolsmith.com 300 Crescent Court Dallas, TX 75201 Telephone: (214) 978-4984 Facsimile: (214) 978-4044	15)
12	Attorneys for Plaintiffs	
13	UNITED STATES DISTRICT COURT	
14	NORTHERN DISTRICT	
15	SAN FRANCISCO DIVISION	
16		
17	BERNARD PAUL PARRISH, HERBERT ANTHONY ADDERLEY, and WALTER	CIVIL ACTION NO. C07 0943 WHA
18	ROBERTS III, on behalf of themselves and all others similarly situated,	PLAINTIFFS' MISCELLANEOUS ADMINISTRATIVE REQUEST TO EXCEED
19	Plaintiffs,	PAGE LIMITS RE PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION
20		IN LIMINE NO. 4
21	NATIONAL FOOTBALL LEAGUE	
22	PLAYERS ASSOCIATION, a Virginia corporation, and NATIONAL FOOTBALL LEAGUE PLAYERS INCORPORATED	
23 24	d/b/a PLAYERS INC, a Virginia corporation,	
25	Defendants.	
26		
27		
28		
MANATT, PHELPS & PHILLIPS, LLP ATTORNEYS AT LAW LOS ANGELES	20203327.1	

Pursuant to Civil Local Rule 7-11, Plaintiffs respectfully request an order allowing them to exceed by six pages the 7-page limit prescribed by Paragraph 2(f) of this Court's *Guidelines for Trial and Final Pretrial Conference in Civil Jury Cases Before the Honorable William Alsup* (the "Pre-Trial Order") so that complex issues can be properly developed for the Court's consideration. If granted, Plaintiffs further request that they be allowed to substitute the version attached as Exhibit A to the accompanying Declaration of Ryan S. Hilbert ("Hilbert Declaration") for the shortened version of the document filed with the motions *in limine* earlier today.

## I. BACKGROUND FACTS

On August 27, 2008, Defendants served Plaintiffs with five different motions in limine, including a *Daubert* motion captioned as *Defendants' Motion in Limine No. 4 to Exclude the Testimony of Daniel A. Rascher* (the "Motion"). Through this Motion, Defendants seek to exclude the testimony and expert reports of Plaintiffs' sports economic expert, Daniel A. Rascher, Ph.D.

In their Motion, Defendants have raised numerous issues that require factual development to refute. That factual development resulted in an Opposition that was a little over 13 pages long and that Plaintiffs sent to Defendants at 2:00 p.m. on October 6, 2008 pursuant to the Court's schedule. A copy of Plaintiffs' original Opposition is attached as Exhibit A to the Hilbert Declaration.

On October 8, 2008, Defendants sent Plaintiffs an e-mail indicating for the very first time that they intended to file a motion to strike Plaintiffs' Opposition on the ground that it violated Paragraph 2(f) of this Court's Order. *See* Hilbert Declaration, Exhibit B. In order to comply with today's deadline for motions *in limine*, Plaintiffs provided Defendants with an abbreviated version of Plaintiffs' Opposition for filing with the Court today. This motion respectfully seeks an order from this Court allowing Plaintiffs to file their earlier, slightly lengthier version.<sup>1</sup>

Pursuant to Local Rule 7-11(a), a stipulation to this motion could not be obtained for the reason set forth in Paragraph 4 of the Hilbert Declaration.

## II. **ARGUMENT**

1

2

Good cause exists for the granting of this motion. Unlike many motions in limine, which are directed at single, discrete fact-based topics, *Daubert* motions are more complex. Such is the case here. Defendants have raised over fifteen significant issues in their Daubert Motion. Because Defendants ignore many facts and authorities, they had no problem keeping their Motion within seven pages. Because Plaintiffs want to develop these facts and authorities for the Court, Plaintiffs respectfully seek leave to file a 13-page Opposition.

Granting Plaintiffs' request also would not prejudice Defendants. Defendants had Plaintiffs' slightly lengthier Opposition for almost two days before they brought this matter to Plaintiffs' attention. Moreover, Defendants will have had ten days to review and analyze Plaintiffs' slightly lengthier Opposition before oral argument on the Opposition at the pre-trial conference on October 15, 2008.

## III. CONCLUSION

Because the issues in Defendants' Daubert Motion are complex, Plaintiffs respectfully request that the Court allow them to exceed by six pages the 7-page motions in limine limit, and to substitute the slightly lengthier version attached as Exhibit A to the Hilbert Declaration for the shortened version of their Opposition that was filed today with the motions in limine today.

Respectfully submitted,

Dated: October 8, 2008 MANATT, PHELPS & PHILLIPS, LLP

/s/ Ryan S. Hilbert By:\_\_ Ronald S. Katz (SBN 085713) Ryan S. Hilbert (SBN 210549)

1001 Page Mill Road, Building 2 Palo Alto, CA 94304-1006

Telephone: (650) 812-1300; Facsimile: (650)

213-0260

MCKOOL SMITH, P.C.

Lewis T. LeClair (SBN 077136) Jill Adler Naylor (SBN 150783)

300 Crescent Court Dallas, TX 75201

Telephone: (214) 978-4984; Facsimile: (214)

978-4044

Attorneys for Plaintiffs

MANATT, PHELPS & PHILLIPS, LLP ATTORNEYS AT LAW LOS ANGELES

20203327.1

2