

Exhibit C
to the
Declaration Of Ronald S. Katz In Support Of
Class Counsels' Application For Fees, Expenses,
And An Incentive Payment For Class
Representative, Herbert Adderley

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Jury orders NFL union to pay \$28.1M to retirees



By PAUL ELIAS, Associated Press Writer
AP - Tuesday, November 11

SAN FRANCISCO - A federal jury on Monday ordered the NFL Players Association to pay \$28.1 million to retired players after finding the union failed to properly market their images.

The figure includes \$21 million in punitive damages, just short of the \$21.9 million award the players' lawyer had asked of the jury to reflect roughly 10 percent of the union's net worth at the start of the year.

A union lawyer had urged the jury to award a far lesser amount so as not to damage the union's ability to represent its members.

Hall of Fame cornerback Herb Adderley filed the lawsuit last year on behalf of 2,056 retired players who contend the union failed to actively pursue marketing deals on their behalf with video games, trading cards and others sports products.

Adderley, 69, played cornerback for the Green Bay Packers and Dallas Cowboys and appeared in four of the first six Super Bowls.

Lawyers representing Adderley and the retired players told the jury during the nearly three-week trial that the union actively sought to cut them out of licensing deals so active players could receive bigger royalty payments. As proof, the retirees pointed to a 2001 letter from an NFLPA executive telling Electronic Arts Inc. executives to scramble the images of retired players in the company's popular "Madden NFL" video game, otherwise the company would have to pay them.

EA's Madden game contains 143 "vintage" teams populated with no-name players that closely resemble Adderley and other retirees yet only active players received a cut of the EA deal, which surpassed \$35 million for 2008.

On Monday, the retirees' lawyer, Ronald Katz, urged the jury to punish the union with a large award to "change their conduct."

Katz said longtime union chief Gene Upshaw and his deputy "betrayed the trust of their members" by neglecting the retired players, who pay \$50 a year to keep their union membership. Upshaw died of cancer in August.

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November 12, 2008

Court Verdict for N.F.L. Retirees Starts New Era

By ALAN SCHWARZ

When a jury in San Francisco on Monday found in favor of more than 2,000 retired N.F.L. players in their class-action lawsuit against the Players Association, it did more than award the retirees \$28.1 million in damages. The verdict may help to delineate a new relationship between active and former players — positively or otherwise.

The two sides have clashed in the news media and before Congressional committees over the past two years, usually regarding pension and disability payments that many retirees have criticized as unfairly low. Monday's ruling — in which the jury awarded the players \$7.1 million in compensatory damages and \$21 million in punitive damages — involved only the union's handling of licensing revenue, but it will almost certainly affect future negotiations between the two groups.

One retired player, the former Minnesota Vikings lineman Brent Boyd, said on Tuesday that he hoped a new era of cooperation could be forged, particularly in the wake of the death of the longtime union chief Gene Upshaw in August. Upshaw, whose replacement has not been selected, had been a lightning rod for criticism by retirees.

"I think definitely it will have ripple effects," Boyd said of the verdict. "I'm hoping it will cause some fresh thinking and cooperation with retired players instead of all-out war, which is what we've been getting."

The lead lawyer for the players' union, Jeffrey L. Kessler, warned that the verdict would hurt the relationship between active and retired players.

"If you're an active player, you have to look at this and say, 'We try to help and this is what happens to us?'" Kessler said. He added that he would file motions for the verdict to be set aside and, if that fails, to appeal the case.

Ending the three-week trial in United States District Court, the jury on Monday found that the union's licensing subsidiary, Players Inc., had used the identities of thousands of retired players without compensating them. A key example was the union's agreement with EA Sports, which generates at least \$25 million a year for the use of player identities in the popular Madden video game series.

The majority of sports licensing revenue derives from the use of active players. The Madden game features more than 100 past teams, like the 1966 Green Bay Packers, and players on those teams argued that although their names and pictures had not been included, many of their individual characteristics — talent level, experience, height and so on — were. The players argued that the group licensing agreement they had signed with Players Inc. required that revenue from such deals be shared with them.

Herb Adderley, who played cornerback on the 1966 Packers, was the name plaintiff for the class that filed suit.

"They betrayed us," Adderley said of the union in a telephone interview. "We put our trust and faith in them, and they betrayed us."

Messages left at the union offices for the spokesman Carl Francis and the union's acting executive director, Richard Berthelsen, were not returned.

Boyd, one of the most vocal retirees on disability issues, said that the licensing case acted as a public referendum on Upshaw's often-contentious handling of retired players. Upshaw and his supporters contended that no sports union had ever done more to benefit its retirees, citing substantial pension and disability coverage increases. As more retirees began going public with criticism, he often fought back, at one point threatening to break the neck of one fellow Hall of Famer.

Speaking to The New York Times the day after Adderley filed the class-action suit in February 2007, Upshaw said that retired players, in general, were not marketable and did not deserve any licensing money.

"We could have the greatest dog food in the world," he said, "but if the dogs don't like it, we can't sell it. Put that at the top of the story."

The lead lawyer for the players, Ronald S. Katz, referred to Upshaw's dog food remark five times in his closing argument, and later said he believed the remark played a significant role in the jury's award.

"Gene was very rarely held accountable for how he treated retired players, and this jury held him accountable," Katz said.

Active players have yet to vote on Upshaw's successor, who will not only deal with retirees but also bargain with the N.F.L. on pension and disability issues. Regarding those active players, Boyd said: "If they had half a second to read about this trial, they should say, 'This leadership team just cost us a fortune.' They should realize they've been bamboozled all this time."

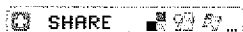
Should the \$28.1 million award stand, each retired player in the lawsuit would receive about \$10,000 after lawyers' fees. The total would represent a cost of about \$20,000 apiece to the roughly 1,500 current active players.

Kessler, in his closing argument, suggested that the union would be substantially harmed from such a verdict — particularly as it prepares to withstand a possible owners' lockout before the 2011 season. Kessler said in an interview Tuesday that the verdict could be only a short-term fix for retirees.

"Retired players have a lot more that they get in collective bargaining than \$10,000 in a one-time check," Kessler said. "Current players contribute more than \$80,000 per player per year toward retired player benefits like pension, health and disability. I would think that's what the retired players would be most interested in preserving here."



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Jury rules in favor of retirees, against NFL

By Ron Snyder

Sports Reporter 11/12/08

Tom Matte and Bruce Laird don't play video games. But the former Baltimore Colts didn't need to know the difference between an Xbox and a PlayStation to know their likenesses were being used without their consent on versions of the popular "Madden NFL" video games.

"There was a Madden game that had a player with my jersey number, height, weight and played safety. It just didn't have my name," said Laird, 58, who played safety for the Colts from 1972-81. "I never received a dime from these games."



A federal jury ruled the NFL Players Association must pay \$28.1 million to retired players, including former Baltimore Colts running back Tom Matte, after finding the union failed to properly market their images. — Examiner File Photo

On Monday in a San Francisco federal courtroom, a jury ordered the NFL Players Association to pay \$28.1 million to retired players after finding the union failed to properly market their images.

The jury ruled the union owed the retirees \$7.1 million in actual damages for failing to include them in lucrative marketing deals with Electronic Arts Inc., the maker of the "Madden NFL" video games, sporting card companies and other sponsorship agreements. It is unclear how the money will be divided because attorney's fees and a potential appeal are pending.

Hall of Fame cornerback Herb Adderley filed the lawsuit last year on behalf of 2,056 retired players who claimed the NFL Players Association failed to actively pursue marketing deals on their behalf with video games, trading cards and other sports products.

"We applaud what Herb Adderley and others have done in this case, which proved the NFLPA has ignored the retired players once again," said Laird, who has been an activist for retired players.

Adderley, 69, played cornerback for the Green Bay Packers and Dallas Cowboys and appeared in four of the first six Super Bowls.

"I won three Super Bowls and this feels better than all of them combined," Adderley said immediately after the verdict was announced. "I always felt I had one big play left."

Richard Berthelsen, the NFLPA's acting executive director, said outside the courthouse the NFLPA would ask the trial judge, U.S. District Court Judge William Alsup, to toss out the verdict. If that fails, they intend to appeal.

Lawyers representing Adderley and the retired players told the jury during the three-week trial that the union actively sought to cut them out of licensing deals so active players could receive bigger royalty payments. As proof, the retirees pointed to a 2001 letter from an NFLPA executive telling Electronic Arts Inc. executives to change the heights, weight and jersey numbers of retired players in the company's "Madden NFL" video game, otherwise it would have to pay them.

EA's Madden game contains 143 "vintage" teams populated with no-name players that closely resemble Adderley and other retirees. Yet only active players received a cut of the EA deal, the union's largest, which surpassed \$35 million for 2008.

"Maybe this will show the active players that the retired player has been ignored now that a jury has ruled in this case," said Matte, 69, who played running back for the Colts from 1961-72.

The Associated Press contributed to this story
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