

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

HERBERT ANTHONY ADDERLEY, on  
behalf of himself and all others similarly  
situated,

No. C 07-00943 WHA

Plaintiffs,

v.

**ORDER RE ATTORNEY'S  
FEES AND COSTS**

NATIONAL FOOTBALL LEAGUE  
PLAYERS ASSOCIATION, a Virginia  
corporation, and NATIONAL FOOTBALL  
LEAGUE PLAYERS INCORPORATED d/b/a  
PLAYERS INC., a Virginia corporation.

Defendants.

1. In order to allow class members an opportunity to evaluate any application for attorney’s fees and expenses, plaintiffs’ counsel must file the application by **SEPTEMBER 24, 2009**.

2. No later than **SEPTEMBER 24, 2009**, plaintiff’s attorneys must file and serve a detailed declaration, organized by discrete projects, breaking down all attorney and paralegal time sought to be recovered. For each project, there must be a detailed description of the work, giving the date, hours expended, attorney name, and task for each work entry, in chronological order. A “project” means a deposition, a motion, a witness interview, and so forth. It does not mean generalized statements like “trial preparation” or “attended trial.” It includes discrete items like “prepare supplemental trial brief on issue X.” The following is an example of time collected by a project.

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PROJECT: ABC DEPOSITION (2 DAYS IN FRESNO)

Date	Time-keeper	Description	Hours x	Rate =	Fee
01-08-01	XYZ	Assemble and photocopy exhibits for use in deposition.	2.0	\$100	\$200
01-09-01	RST	Review evidence and prepare to examine ABC at deposition.	4.5	\$200	\$900
01-10-01	XYZ	Research issue of work-product privilege asserted by deponent.	1.5	\$100	\$150
01-11-01	RST	Prepare for and take deposition.	8.5	\$200	\$1700
01-12-01	RST	Prepare for and take deposition.	<u>7.0</u>	\$200	<u>\$1400</u>
Project Total:			<u>23.5</u>		<u>\$4350</u>

3. All entries for a given project must be presented chronologically one after the other, *i.e.*, uninterrupted by other projects, so that the timeline for each project can be readily grasped. Entries can be rounded to the nearest quarter-hour and should be net of write-down for inefficiency or other cause. Please show the sub-totals for hours and fees per project, as in the example above, and show grand totals for all projects combined at the end. Include only entries for which compensation is sought, *i.e.*, after application of “billing judgment.” For each project, the declaration must further state, in percentage terms, the proportion of the project directed at issues for which fees are awardable and must justify the percentage. This percentage should then be applied against the project total to isolate the recoverable portion (a step not shown in the example above).

4. A separate summary chart of total time and fees sought per individual timekeeper (not broken down by project) should also be shown at the end of the declaration. This cross-tabulation will help illuminate all timekeepers’ respective workloads and roles in the overall case.

5. The declaration must also set forth (a) the qualifications, experience and role of each attorney or paralegal for whom fees are sought; (b) the normal rate ordinarily charged for each in the relevant time period; (c) how the rates were comparable to prevailing rates in the community for like-skilled professionals; and (d) proof that “billing judgment” was exercised.

1 On the latter point, as before, the declaration should describe adjustments made to eliminate  
2 duplication, excess, associate-turnover expense, and so forth. These adjustments need not be  
3 itemized but totals for the amount deleted per timekeeper should be stated. The declaration  
4 must identify the records used to compile the entries and, specifically, state whether and the  
5 extent to which the records were contemporaneous versus retroactively prepared. It must state  
6 the extent to which any entries include estimates (and what any estimates were based on).  
7 Estimates and/or use of retroactively-made records may or may not be allowed, depending on  
8 the facts and circumstances.

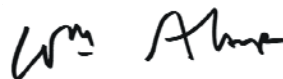
9 6. Ordinarily, no more than one attorney and one paralegal need be present at a  
10 deposition; more will normally be deemed excessive. Ordinarily, no more than one attorney  
11 need attend a law-and-motion hearing; more will normally be deemed excessive. To allow for  
12 symmetry, however, the award will take into account the staffing used by the opposing party.

13 7. Because multiple law firms represented the class, it is important to understand  
14 whether more than one law firm worked on any given project. For example, if two law firms  
15 attended a single deposition for plaintiffs, then the Court needs a way to recognize that multiple  
16 firms billed time to the same project without having to mix-and-match the fee applications for  
17 each firm. Consequently, counsel shall please indicate for each discrete project whether the  
18 other law firm billed time to the same project. It will be sufficient to say at the end of the time  
19 entry for the given project that co-counsel also billed X hours to the same project. As stated at  
20 the hearing on preliminary approval, the Court has had concerns over the large number of  
21 lawyers present at trial every day. The Court assumes that some of this was for training  
22 purposes, which is fine, but should not be charged to the class.

23 8. Costs will be determined in strict compliance with the local rules. If a review is  
24 sought regarding taxable costs, then the issue may also be referred to a special master (or may  
25 not).

26 **IT IS SO ORDERED.**

27 Dated: September 2, 2009.



28 WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE