

Exhibit C
To The
Declaration Of Ryan S. Hilbert In Support Of
Class Counsels' Response To November 17, 2009
Order

Hilbert, Ryan

From: Greenspan, David [dgreenspan@DeweyLeBoeuf.com]
Sent: Thursday, October 16, 2008 12:57 PM
To: jnaylor@MckoolSmith.com
Cc: Hilbert, Ryan; bcharhon@McKoolSmith.com; Papendick, Ian; lleclair@mckoolsmith.com; Katz, Ron; Hummel, Chad; Kessler, Jeffrey; Feher, David; Clark, Jason; Taub, Roy; Donovan, Molly; Caplan, Lauren
Subject: RE: Joint Final Pre-Trial Order

Counsel:

We have discovered that the number of GLA class members that the parties stipulated to (with Defendants reserving their rights to correct that number) is inaccurate. We believe that the correct number is 2,062 class members (not 2,056).

There is no longer any point to trying to conform the exhibit to the Joint Stipulated Facts prepared by Plaintiffs since the Judge ruled that he will not be giving the jury a copy of the Stipulated Facts (and thus he will obviously not be giving the jury any exhibits to the Stipulated Facts). However, we found over 25 errors in Plaintiffs' list that make it unreliable as a starting point for trying to arrive at an accurate count. For example, we found over 10 instances where class members were double-counted because of typos (e.g., Dick Abrose and Dick Ambrose, and Merrill Hoge and Merrill Hose). We also found over 10 other instances where class members were mistakenly omitted altogether (e.g., no entry for James Barton or Mike Codish).

We also painstakingly re-vetted our GLA compilation (Trial Exhibit 2057) which indicates that there are 2,076 retired players who signed the GLA form at issue. We found two errors during our re-review (Allen E. Atkinson and Al Atkins are the same person, and so are Raymond C. White and Roy White), so the correct number should be 2,074 retired players (we will be providing to Brett an amended Trial Exhibit 2057 shortly). When the 12 opt outs are subtracted from our compilation (we had already excluded the 13th opt out, Andre Collins, an NFLPA employee), there are 2,062 class members left. This is the number we should stipulate to.

I suggest we simply amend the Stipulated Facts to reflect the 2,062 number, delete all references to exhibits to the Stipulated Facts, and then file an Amended Stipulated Facts with the Court. We will take care of this if you agree, please let me know as soon as possible. Thanks.

Dave

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-----Original Message-----

From: jnaylor@MckoolSmith.com [mailto:jnaylor@MckoolSmith.com]
Sent: Tuesday, October 07, 2008 4:18 PM
To: Greenspan, David
Cc: RHilbert@manatt.com; bcharhon@McKoolSmith.com; Papendick, Ian; lleclair@mckoolsmith.com; rkatz@manatt.com; chummel@manatt.com; Kessler, Jeffrey; Feher, David
Subject: RE: Joint Final Pre-Trial Order

Yes.

-----Original Message-----

From: Greenspan, David [mailto:dgreenspan@DeweyLeBoeuf.com]
Sent: Tuesday, October 07, 2008 5:35 PM
To: Jill Naylor
Cc: RHilbert@manatt.com; Brett Charhon; Papendick, Ian; Lew LeClair; rkatz@manatt.com; chummel@manatt.com; Kessler, Jeffrey; Feher, David
Subject: RE: Joint Final Pre-Trial Order

We agree. Our footnote will state that: "Defendants' reserve their right to correct the number of GLA Class members and/or the attached list of GLA Class members prior to trial should Defendants discover that this information -- which was provided by Plaintiffs just prior to the parties' deadline for filing their Stipulated Facts -- is inaccurate."

With that one change to the Proposed Pretrial Order you sent earlier, are Plaintiffs signed off?

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-----Original Message-----

From: jnaylor@mckoolsmith.com [mailto:jnaylor@mckoolsmith.com]
Sent: Tuesday, October 07, 2008 6:28 PM
To: Greenspan, David
Cc: RHilbert@manatt.com; bcharhon@mckoolsmith.com; Papendick, Ian; lleclair@mckoolsmith.com; rkatz@manatt.com; chummel@manatt.com; Kessler, Jeffrey; Feher, David
Subject: RE: Joint Final Pre-Trial Order

Dave,
I sent an email on this but for some reason it doesn't look like it went through so I apologize if this is a duplicate. At any rate, we agree to that change, so long as you will put a deadline on the time to make corrections as prior to trial.

Could you make the change to the document?

Thanks.

-----Original Message-----

From: Greenspan, David [mailto:dgreenspan@DeweyLeBoeuf.com]
Sent: Tuesday, October 07, 2008 4:11 PM
To: Jill Naylor
Cc: RHilbert@manatt.com; Brett Charhon; Papendick, Ian; Lew LeClair; rkatz@manatt.com; chummel@manatt.com; Kessler, Jeffrey; Feher, David
Subject: RE: Joint Final Pre-Trial Order

Jill,

There is obviously a significant margin for inadvertent error in compiling a list of 2,000 plus names, which is why we can't stipulate to the accuracy of Plaintiffs' list within hours of it first being sent to us. We agree, however, to proceed as you propose, i.e., we will stipulate to the number of class members (2,056) and to your list, so long as we include a footnote to that stipulated fact stating that: "Defendants' reserve their right to correct the number of GLA Class members and/or the attached list of GLA Class members should Defendants discover that this information -- which was provided by Plaintiffs just prior to the parties' deadline for filing their Stipulated Facts -- is inaccurate." Please provide us as soon as possible with a list of

the GLA Class opt-outs so we may begin the process of confirming Plaintiffs' list of class members.

Thanks,
Dave

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-----Original Message-----

From: jnaylor@mckoolsmith.com [mailto:jnaylor@mckoolsmith.com]
Sent: Tuesday, October 07, 2008 3:27 PM
To: Greenspan, David
Cc: RHilbert@manatt.com; bcharhon@McKoolSmith.com; Papendick, Ian;
lleclair@mckoolsmith.com; rkatz@manatt.com; chummel@manatt.com
Subject: RE: Joint Final Pre-Trial Order

Dave,
The list was compiled only from the information that Defendants provided to us. Furthermore, you've seen similar lists from Plaintiffs, notably that attached to the Rowley report, and haven't questioned their accuracy. Nevertheless, I understand your desire to review this list, as well.

I suggest that we attach this list as Exhibit A to the Joint Pretrial Order as we had planned on doing, but that the defendants reserve their right to challenge any particular individuals on it before trial (and incorporate their reservation into the Pretrial Order). This seems a more efficient way to approach this. Please let me know your thoughts.

Jill

From: Greenspan, David [mailto:dgreenspan@DeweyLeBoeuf.com]
Sent: Tue 10/7/2008 11:56 AM
To: Jill Naylor
Cc: RHilbert@manatt.com; Brett Charhon; Papendick, Ian
Subject: RE: Joint Final Pre-Trial Order

Jill -- Please respond to my two prior emails regarding stipulating to the number of class members (and not the list) since we cannot confirm the 2,056 names by the end of the day.
Thanks, Dave

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From: jnaylor@mckoolsmith.com [mailto:jnaylor@mckoolsmith.com]
Sent: Tuesday, October 07, 2008 12:32 PM

To: Greenspan, David
Cc: RHilbert@manatt.com; bcharhon@McKoolSmith.com
Subject: FW: Joint Final Pre-Trial Order

Dave,
I have renumbered all the Exhibits in the Pretrial Order to be consistent with the Exhibits sent to you by Brett a few minutes ago.

From: Sandy Bryan
Sent: Tuesday, October 07, 2008 11:27 AM
To: Jill Naylor
Subject: Joint Final Pre-Trial Order

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