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

BERNARD PARRISH, BOB GRANT, ROY LEE  
JEFFERSON, WALTER BEACH, DR. CLINTON  
JONES, WALTER ROBERTS, III, CLIFTON  
McNEIL, MARVIN COBB, JOHN BRODIE, CHUCK  
BEDNARIK, AND PAUL HORNUNG, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

MANATT, PHELPS & PHILLIPS, LLP and McKOOL  
SMITH, PC,

Defendants.

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

Plaintiffs,

v.

NATIONAL FOOTBALL LEAGUE PLAYERS  
INCORPORATED, et al.,

Defendants.

No. C 10-03200 WHA

and

No. C 07-00943 WHA

**ORDER REGARDING  
RELATING CASES  
AND REFERRAL OF  
PENDING MOTION  
FOR RECUSAL**

As defined by Civil Local Rule 3-12(a), an action is related to another when:

- (1) The actions concern substantially the same parties, property, transaction or event; and
- (2) It appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different judges.

1           These cases are clearly related under this definition. The issue of the performance of class  
2 counsel overlaps. The entire background of the cases overlaps. The issue of the group licensing  
3 agreement and its interpretation overlaps. Most of the plaintiffs in the second action are class  
4 members in the first case. Also of importance is the stormy relationship of one of the plaintiffs  
5 vis-a-vis class counsel. Also present is the question of whether the objections now presented in  
6 the new case should have been presented with the objections in the original class action. And, the  
7 second action is a criticism of the way in which the first action was litigated. Bringing in a new  
8 judge to re-plow all of these overlapping grounds would be wasteful and invite inconsistent  
9 results. This is a key consideration behind the related-case ruling. It plainly applies here. So, the  
10 order relating the two cases will stand.

11           As for the comments made by the undersigned judge of concern to class counsel in the  
12 first case, they were made in direct response to a motion for attorney's fees in the first case and  
13 were made to explain why class counsel were not entitled to the premium fee requested. Those  
14 comments, however, were not a criticism that class counsel had committed malpractice vis-a-vis  
15 the class. Whether or not malpractice occurred would involve a broader range of considerations.  
16 Had counsel requested a normal fee, it is likely that the comments would have gone unsaid.  
17 Counsel, however, requested a larger, premium fee and the comments were only made by way of  
18 explaining why a more normal fee was in order.

19           With respect to the prospect of the pending motion for recusal of the undersigned judge, it  
20 must be said that every observation made by the undersigned judge about the performance of  
21 class counsel was made in the official line of duty in adjudicating issues in the first action.  
22 Nothing was said outside of the normal judicial process. As explained by the Supreme Court:

23                   [O]pinions formed by the judge on the basis of facts introduced or  
24 events occurring in the course of the current proceedings, or of  
25 prior proceedings, do not constitute a basis for a bias or partiality  
26 motion unless they display a deep-seated favoritism or antagonism  
27 that would make fair judgment impossible. Thus, judicial remarks  
28 during the course of a trial that are critical or disapproving of, or  
even hostile to, counsel, the parties, or their cases, ordinarily do  
not support a bias or partiality challenge.

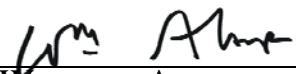
*Liteky v. United States*, 510 U.S. 540, 555 (1994).

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That said, the recusal motion will be referred to another judge for decision and the Clerk is **ORDERED** to assign that motion to a randomly selected district judge.

**IT IS SO ORDERED.**

Dated: August 30, 2010.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE