

1 MANATT, PHELPS & PHILLIPS, LLP
 RONALD S. KATZ (Bar No. CA 085713)
 2 E-mail: rkatz@manatt.com
 RYAN S. HILBERT (California Bar No. 210549)
 3 E-mail: rhilbert@manatt.com
 NOEL S. COHEN (California Bar No. 219645)
 4 E-mail: ncohen@manatt.com
 1001 Page Mill Road, Building 2
 5 Palo Alto, CA 94304-1006
 Telephone: (650) 812-1300
 6 Facsimile: (650) 213-0260

7 McKOOL SMITH, P.C.
 LEWIS T. LECLAIR (Bar No. CA 077136)
 8 E-mail: lleclair@mckoolsmith
 300 Crescent Court, Suite 1500
 9 Dallas, TX 75201
 Telephone: (214) 978-4000
 10 Facsimile: (214) 978-4044

11 Attorneys for Plaintiffs

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 SAN FRANCISCO DIVISION

17 BERNARD PAUL PARRISH, HERBERT
 ANTHONY ADDERLEY, and WALTER
 18 ROBERTS III, on behalf of themselves and
 19 all others similarly situated,

20 Plaintiffs,

22 NATIONAL FOOTBALL LEAGUE
 PLAYERS ASSOCIATION, a Virginia
 corporation, and NATIONAL FOOTBALL
 23 LEAGUE PLAYERS INCORPORATED
 24 d/b/a PLAYERS INC, a Virginia
 corporation,

25 Defendants.

CIVIL ACTION NO. C07 0943 WHA

**SECOND AMENDED COMPLAINT FOR
 BREACH OF CONTRACT, UNJUST
 ENRICHMENT, BREACH OF FIDUCIARY
 DUTY, VIOLATION OF CALIFORNIA
 BUSINESS & PROFESSIONS CODE § 17200,
 AND AN ACCOUNTING**

CLASS ACTION

JURY TRIAL DEMANDED

1 Plaintiffs Bernard Parrish, Herbert Adderley and Walter Roberts III, by and through their
2 undersigned attorneys, bring this complaint on behalf of themselves and other similarly situated
3 retired NFL players against National Football League Players, Inc. ("PLAYERS INC"), and its
4 parent labor union, the National Football League Players Association (the "NFLPA" or the
5 "Players Union"), as follows:

6 **I. INTRODUCTION**

7 This is a class action lawsuit brought by three classes of retired NFL football players
8 against the NFLPA and PLAYERS INC. Plaintiffs allege that the Defendants have unfairly
9 competed and wrongfully interfered with the marketing of the images of all retired NFL players
10 and further breached their duties to those retired players who have signed a Group Licensing
11 Agreement ("GLA"). Plaintiffs seek relief on behalf of the Classes for breach of contract, unjust
12 enrichment, breach of fiduciary duty, violations of the California Business & Professions Code
13 § 17200, and Plaintiffs seek an accounting.

14 **II. JURISDICTION AND VENUE**

15 1. The Court has subject matter jurisdiction under 28 U.S.C. § 1332 (diversity
16 jurisdiction) because one or more Class members is a citizen of a state different from Defendants,
17 there are more than 100 class members, and, on information and belief, the aggregate amount in
18 controversy exceeds the jurisdictional amount of \$5 million.

19 2. Venue in this Court is proper under 28 U.S.C. § 1391 because a substantial part of
20 the events or omissions giving rise to the claims occurred in this district.

21 **III. INTRADISTRICT ASSIGNMENT**

22 3. Pursuant to Local Civil Rule 3-2, assignment of this action to the San Francisco
23 division of this Court is proper because a substantial part of the events or omissions giving rise to
24 the claims herein occurred in San Mateo County.

25 **IV. PARTIES**

26 **A. PLAINTIFFS**

27 4. Plaintiff BERNARD PAUL PARRISH, a resident of Florida, is a former defensive
28 back who starred with the Cleveland Browns from 1959 through 1966. Parrish graduated with a

1 degree in Building Construction from the University of Florida, School of Architecture and fine
2 Arts. He was the CEO and President of a commercial construction company for over 20 years that
3 employed over 3,000 tradesmen, laborers and engineers (both union and non-union), building
4 hotels, medical and office buildings, and housing for officer and enlisted men on AFB's in eight
5 states. Prior to entering the NFL, Parrish was a baseball All-American at the University of Florida
6 (where he is also a member of the school's Hall of Fame) and played one year of professional
7 baseball. As a pro football player, Parrish played in two Pro Bowl games. In 1964, Parrish led the
8 Browns to an NFL World Championship, beating Johnny Unitas and Coach Don Shula's heavily-
9 favored Colts 27-0. Parrish has been an advocate for retired players for many years. He is the
10 author of a best selling book, *They Call It A Game*. He is a competitor and/or potential competitor
11 to Defendants for the marketing of his image. Parrish has signed a number of Group Licensing
12 Agreements (GLAs) with the NFLPA.

13 5. Plaintiff HERBERT ANTHONY ADDERLEY, a resident of New Jersey, is a
14 former NFL cornerback who starred for the Green Bay Packers and the Dallas Cowboys from 1961
15 through 1972. Adderley played in five Pro Bowl games during the 1960's. He also played in
16 seven NFL championship games, including four of the first six Super Bowl games. Adderley is
17 one of only two players in pro football history to play on six World Championship teams.
18 Adderley's 60-yard interception return for a clinching touchdown for the Packers in Super Bowl II
19 was the first touchdown scored by a defensive player in Super Bowl history. He was enshrined in
20 the Pro Football Hall of Fame in 1980. In 1999, Adderley was ranked number 45 on *The Sporting*
21 *News'* list of the 100 Greatest Football Players. Adderley has signed a number of GLAs with the
22 NFLPA. He is a competitor and/or potential competitor to Defendants for the marketing of his
23 image.

24 6. Plaintiff WALTER ROBERTS III, a resident of Northern California since 1979, is a
25 former wide receiver and kick returner who starred in the NFL from 1964 to 1970. A former
26 California state and national long-jump champion in 1960, Roberts went on to play with the
27 Cleveland Browns from 1964 to 1966 and was a member of the Cleveland Browns team that
28 defeated Johnny Unitas and Coach Don Shula's heavily-favored Colts 27-0 in the 1964 World

1 Championship. Roberts also led the league in kickoff returns that same year. Following his stint
2 with the Browns, Roberts played with the New Orleans Saints during their inaugural season in
3 1967 and helped the Saints win their first game in franchise history by scoring three touchdowns in
4 a 31-24 victory over the Philadelphia Eagles. Roberts also played for Coach Vince Lombardi and
5 the Washington Redskins in 1969 and 1970. Following his career in professional football, Roberts
6 co-owned a building supplies company called JR Builders Specialties, Inc. He is a competitor
7 and/or potential competitor to Defendants for the marketing of his image, and still receives many
8 requests for autographs for trading cards bearing his image.

9 **B. DEFENDANTS**

10 7. Defendant NFLPA, formed in 1956, is a Virginia corporation that acts as the labor
11 union for professional football players in the National Football League. The NFLPA's principal
12 place of business is 2021 L Street, Washington, D.C. According to the NFLPA, "financial security
13 for players during and after their football career is a goal of the NFLPA."

14 According to the NFLPA's mission statement:

15 We, the National Football League Players Association, pay homage to our
16 predecessors for their courage, sacrifice and vision; pledge to preserve and
17 enhance the democratic involvement of our members; and confirm our
18 willingness to do whatever is necessary for the betterment of our
19 membership to preserve our gains and achieve those goals not yet attained.

20 8. PLAYERS INC, formed in 1994, is the licensing and marketing subsidiary of the
21 NFLPA (see **Exhibit F**). PLAYERS INC is a Virginia corporation with its principal place of
22 business at 2021 L Street, Washington, D.C. It claims to market active and retired players through
23 licensed products such as trading cards and video games, television and radio programming,
24 personal appearances, autograph signings, an Internet site, and events such as the Super Bowl.
25 PLAYERS INC has already been served and filed an Answer in this lawsuit. During 2006, on
26 information and belief, the following officers resigned from PLAYERS INC: its President, its
27 Executive Vice President, its Senior Vice President, and its Vice President. On its website as of
28 February 6, 2007, PLAYERS INC listed the following under the category "HISTORY":

April 1995 PLAYERS INC launches a Player Marketing department to
generate marketing opportunities for NFL players and to support its
licensing departments.

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June 1998 PLAYERS INC signs MBNA to a five year, multi-million dollar sponsorship agreement. PLAYERS INC names MBNA the "Official Credit Card of the NFL Players," and MBNA uses the sponsorship to include NFL player images on affinity credit cards.

June 1999 PLAYERS INC signs Coors Brewing Company to a three year, multi-million dollar sponsorship agreement. Coors leverages the sponsorship by creating the "Coors Light NFL Players Starting Lineup" fantasy football promotion on its 12-packs in the fall.

August 2000 PLAYERS INC and the NFL enter into a historic internet and sponsorship partnership. NFLPlayers.com becomes part of the NFL Internet Network and NFL players are now made available to NFL sponsors exclusively through PLAYERS INC. As part of the partnership, PLAYERS INC and the NFL manage the NFL Auction on eBay and PLAYERS INC licenses NFL.com's fantasy football game.

July 2001 PLAYERS INC licenses Reebok exclusively to produce authentic and replica NFL player jerseys. Reebok breaks all previous PLAYERS INC licensed jersey sales records.

February 2003 More than 5 million PLAYERS Inc-licensed videogames are sold during the 2002 NFL season.

March 2003 Annual retail sales of PLAYERS INC licensed products reaches \$700 million.

August 2003 PLAYERS INC launches its own fantasy football game, NFL Players Fantasy Football, on NFLPLAYERS.COM.

November 2004 PLAYERS INC signs a five year exclusive videogame license with Electronic Arts (EA), the world's largest videogame software manufacturer.

March 2005 Annual retail sales of PLAYERS INC licensed products reaches \$750 million.

August 2005 Beat The NFL Players Fantasy Football is available only at NFLPLAYERS.COM giving fans the chance to test their skills against former NFL greats Ron Jaworski, Daryl Johnston, Ed McCaffrey, Fran Tarkenton, Thurman Thomas and Jack Youngblood.

September 2005 PLAYERS INC currently licenses more than 65 companies for retail and licensed products and does business with 21 NFL sponsors.

On its website on February 6, 2007, PLAYERS INC stated under the heading "What is GROUP LICENSING?":

Group licensing programs are defined as those programs in which a licensee utilizes a total of six (6) or more NFL players in conjunction with or on products that are sold at retail or used as promotional or premium

1 items. The players may be depicted individually on a product as part of a
2 series or collectively with other players.

3 Some PLAYERS INC group licensing programs utilize as few as 6 players
4 and others as many as 1,800 league-wide. PLAYERS INC works with more
5 than 60 licensees whose products include: Trading cards (500+ players),
6 Videogames (1,500+ players), Apparel (1,000+ players) and Collectibles
7 (75+ players).”

8 V. SUBSTANTIVE ALLEGATIONS

9 9. The NFLPA is the labor union representing active football players in the NFL.
10 Almost all active NFL players grant the right to market their names and images to the NFLPA
11 under the Collective Bargaining Agreement with the NFL (the “CBA”). The NFLPA also offers
12 membership to retired NFL players and charges them annual dues for membership. The NFLPA
13 promotes a “Retired Players Group Licensing Program,” which solicits retired players to grant to
14 the NFLPA the right to market the retired player’s name, number, likeness, voice, facsimile
15 signature, photograph, picture, and/or biographical information (collectively “image”) as a part of a
16 group consisting of six or more players.

17 10. PLAYERS INC is a for profit corporation owned by the NFLPA. According to a
18 Form 990 filed by Defendant NFLPA, PLAYERS INC is 79% owned by the NFLPA (see **Exhibit**
19 **A**). The NFLPA assigns the license agreements that it receives from retired players to PLAYERS
20 INC. As stated on PLAYERS INC’s website on February 6, 2007, the licensing operates as
21 follows:

22 When a player signs an NFLPA Group Licensing Assignment (GLA) or assigns his
23 group licensing rights to the NFLPA, he gives the NFLPA the exclusive right to use
24 his name, number, likeness, voice, facsimile signature, photograph, picture, and/or
25 biographical information (collectively “image”) in licensed programs involving six
26 or more players. The NFLPA has assigned, and will continue to assign, those rights
27 to PLAYERS INC.

28 11. On information and belief, PLAYERS INC receives revenues of over \$100 million
per year based on sales of licensed products of over \$700 million per year.

12. On various occasions, PLAYERS INC has made inconsistent, misleading, and
ambiguous representations about the number of retired players that it purports to represent. For
example, PLAYERS INC’s website as of February 6, 2007 (before the original complaint in this

1 matter was filed) stated that PLAYERS INC represents “over 3000 retired players.” Shortly after
2 this complaint was filed, however, the PLAYERS INC website was changed to say that PLAYERS
3 INC represents “many memorable retired NFL players.” At present, Plaintiffs do not know the
4 exact number of retired players purportedly represented by PLAYERS INC.

5 13. PLAYERS INC and the NFLPA have sought to become the exclusive representative
6 for active and retired players with respect to licensed products, such as trading cards and video
7 games, television and radio programming, personal appearances, autograph signings, an Internet
8 site, and events such as the Super Bowl. As a letter (**Exhibit B**) from the Chairman of PLAYERS
9 INC to a retired player states:

10 PLAYERS INC’S licensees such as EA Sports are permitted to secure retired NFL player
11 rights only from PLAYERS INC, not from any other source, contrary to what others may
12 have told you. This offer will be your only opportunity to participate in NFL player video
13 games and get paid.

14 **Exhibit B** (emphasis added). On information and belief, this same letter was sent to a number of
15 retired NFL players.

16 14. Defendant NFLPA has confirmed its desire and intention to become the exclusive
17 group licensing representative for active and retired NFL players. For example, the NFLPA’s
18 licensing agreement (effective March 1, 2007) with one of the major trading card companies, the
19 TOPPS Company, Inc. (“TOPPS”), attaches a sample GLA between the NFLPA and a retired
20 player that is entitled “Retired Player Group Licensing Authorization Form”. This sample GLA
21 states that the NFLPA “agrees to use its best efforts to promote the use of NFL player images in
22 group licensing programs, to provide group licensing opportunities to all NFL players, and to
23 ensure that no entity engages in a group licensing program without first obtaining a license from
24 the NFLPA.” (See Attachment A (page 14) to the TOPPS license agreement, which is attached
25 hereto as **Exhibit C**) (emphasis added).

26 15. Furthermore, Paragraph 11 of Exhibit C emphasizes exclusivity, not just for group
27 licensing: “Licensee agrees and acknowledges that it shall not secure or seek to secure directly
28 from any player who . . . at any time was under contract to an NFL club, or from such player’s

1 agent, permission or authorization for the use of such player's name, facsimile, signature, image,
2 likeness, photograph or biography in conjunction with the licensed product(s) herein.”

3 **A. THE NFLPA AND PLAYERS INC HAVE CONTRACTUAL OBLIGATIONS**
4 **TO THOSE RETIRED PLAYERS WHO HAVE SIGNED A GLA.**

5 16. On information and belief, Adderley, Parrish and other members of the GLA Class
6 (see Paragraphs 37-38 for a definition of the GLA Class) entered into one or more versions of
7 Group Licensing Agreement(s) with PLAYERS INC and/or the NFLPA within the period of the
8 statute of limitations. The GLA form signed by Plaintiff Parrish in 1998 is attached as an example
9 of one such agreement (**Exhibit D**).

10 17. According to PLAYERS INC's website, retired players sign a Group Licensing
11 Agreement with the NFLPA. In turn, the NFLPA assigns (and will continue to assign) the rights
12 under those Agreement(s) to PLAYERS INC. On information and belief, some NFL players may
13 have also signed Group Licensing Agreement(s) directly with PLAYERS INC.

14 18. A version of the Group Licensing Agreement, executed by members of the GLA
15 Class including Parrish and Adderley (**Exhibit D**), provided, in relevant part, that “. . . the monies
16 generated by such licensing of retired player group rights will be divided among the player, the
17 Players Assistance Trust and, to the extent necessary, may be used to cover the cost of
18 administering the Retired Player Group Licensing Program.” (emphasis added).

19 19. On information and belief, a 2007 version of the Group Licensing Agreement –
20 attached as a “Sample GLA” to the NFLPA's Licensing Agreement with TOPPS (**Exhibit C**) –
21 provides, in relevant part, that “the NFLPA agrees to ...use its best efforts to promote the use of
22 NFL player image in group licensing programs, to provide group licensing opportunities to all NFL
23 players” (emphasis added).

24 20. Despite Defendants' obligations to Plaintiffs, an email from the then-president of
25 PLAYERS INC (**Exhibit E**) states that only 358 of 3,500 retired players received payments in
26 2005. These payments amounted to a fraction of PLAYERS INC's NFL player licensing business.
27 With respect to those retired NFL players who signed GLAs with the NFLPA that have in turn
28

1 been assigned to PLAYERS INC, PLAYERS INC has and had an obligation to provide payment
 2 regardless of whether a specific player's image is or was used (see **Exhibit D**), which was drafted
 3 solely by PLAYERS INC); as PLAYERS INC's website as of February 6, 2007 (**Exhibit F**) stated:

4 PLAYERS INC has become a fully integrated marketing company for
 5 active and retired NFL players. These activities generate guaranteed
 6 royalties to PLAYERS INC and the players in addition to providing
 7 financial support to the NFLPA. The organization is committed to meeting
 8 the needs of all NFL players in the National Football League by creating
 9 player marketing opportunities, increasing brand awareness and developing
 10 valuable business partnerships.

11 PLAYERS INC has positioned itself in the marketplace as a
 12 "brand" and has adopted the slogan "PLAYERS INC MEANS NFL
 13 PLAYERS." The highly recognizable PLAYERS INC logo, which
 14 represents all players in the NFL, has become a valuable and recognizable
 15 icon that appears on all licensed products and is used in connection with all
 16 sponsorships, promotions and PLAYERS INC events and properties.

17 **Exhibit F** (emphasis added).

18 21. Although it is to be expected that some better-known players will or may receive
 19 additional payments, each represented player should have received some payment as a result of
 20 signing a GLA. PLAYERS INC's website as of February 6, 2007 states: "Any players who are
 21 singled out to promote licensed products are paid additional fees for being highlighted on product
 22 packaging, point of sale, print ads or other collateral material, for autographs, appearances, product
 23 endorsements and commercials." (emphasis added). Instead of providing payments to all retired
 24 players who signed a GLA, PLAYERS INC has, on information and belief, diverted millions of
 25 dollars from PLAYERS INC to the NFLPA in order to support the overhead, substantial salaries
 26 and perquisites of NFLPA management and employees. Plaintiffs have an ownership interest in
 27 these funds.

28 **B. THE NFLPA AND PLAYERS INC HAVE FIDUCIARY OBLIGATIONS TO
 THOSE RETIRED PLAYERS WHO HAVE SIGNED A GLA.**

29 22. Furthermore, whether or not the GLAs created contractual obligations to retired
 30 NFL players, as the representative of the retired players who have signed a GLA during the class
 31 period, Defendants have created an agency relationship between themselves and the retired
 32

1 players, either by operation of law and/or as can be inferred or implied based on the conduct of the
2 parties and the circumstances of the case. Upon information and belief, Defendants have enjoyed
3 substantial benefits from these agency relationships, and Defendants should now be estopped from
4 disavowing their resulting obligations.

5 23. As the agent of those retired players who have signed a GLA, Defendants have
6 assumed a confidential relationship with the retired players and are obligated to act with the
7 highest duty of loyalty and regard for the interests of the retired players. Those duties include
8 fiduciary obligations. Defendants owed and/or owe each represented player a fiduciary duty to
9 seek for that player licensing and marketing opportunities in a fair and equitable manner consistent
10 with the best interests of that player. Instead, Defendants have acted in an arbitrary, capricious and
11 inequitable manner, contrary to their fiduciary obligations. Those retired players who have signed
12 GLAs for any given year are all, as individuals, vulnerable to the size and economic power of
13 Defendants; their vulnerability empowers Defendants; this empowerment has been solicited and/or
14 accepted by Defendants; and Plaintiffs and the putative class they represent are unable to
15 effectively protect themselves from Defendants. Many retired players suffer from mental and
16 physical disabilities as a result of their NFL careers. It would be unfair and contrary to law to
17 allow PLAYERS INC to reap the benefits of its purported representation – *i.e.*, obtaining sole and
18 exclusive right to negotiate with third parties like EA Sports – but then disavow that relationship
19 for purposes of avoiding the need to account for and/or fairly represent the retired players who
20 signed GLAs. Defendants should be estopped from adopting such a position.

21 24. **Exhibit G** states that “. . . every retired player has benefited from PLAYERS INC’s
22 creation... [b]ecause 40% of PLAYERS INC’s operating revenue is paid to the NFLPA as a royalty
23 . . . This allows the NFLPA to provide extensive services and benefits to retired players . . .” But
24 the NFLPA does not provide “extensive” services and benefits to retired players, even to those
25 retired players who have chosen to pay the \$100 annual fee to join the NFLPA’s retired member
26 program. As a result, any purported benefits to the retired players have not been actualized¹.

27 ¹ In addition to poverty-level NFLPA pension payments (Plaintiff Adderley, for example,
28 receives only \$176.85 per month), and the failure to disburse royalty payments from PLAYERS
INC to 90% of the retired players who signed GLAs, the situation regarding disability payments to

1 25. Defendants purport to have the sole and exclusive control over licensing contracts
2 with vendors and yet provide no meaningful information to retired NFL players on such contracts.
3 With respect to the vast sums of money that Defendants are able to obtain through their claim to
4 represent retired NFL players who have signed GLAs, Defendants control all of the material
5 information and accounting for funds due and owing to members of the GLA Class.

6 26. More specifically, PLAYERS INC and the NFLPA have a continuing duty to GLA
7 Class members (see Paragraphs 37-38) to serve the best interests of all retired NFL players who
8 have signed GLAs, to maximize the collection of revenue, portions of which belong to members of
9 the GLA Class; to accurately report such revenues and other material to members of the GLA
10 Class; to accurately account for such monies; and to remit such monies to the members of the GLA
11 Class in a timely fashion. By virtue of, among other things, PLAYERS INC's and/or the NFLPA's
12 position of control and the lack of information in the possession of GLA Class members,
13 Defendants stand in the position of fiduciary to Plaintiffs and thus must account for amounts due
14 and owing to Plaintiffs.

15 27. PLAYERS INC and/or the NFLPA have violated their fiduciary duties to the retired
16 players who signed GLAs in several additional ways:

- 17 • Although Defendants have a complete monopoly on the basic information relevant
18 to Plaintiffs (including, for example, sources of revenue, principles for division of
19 monies, revenues, principles for division of opportunities, efforts to develop
20 business, and other basic business facts), Defendants have revealed only sketchy
21 and inadequate information to Plaintiffs in spite of numerous requests (see, for
22 example, **Exhibit I**, regarding Adderley's unsuccessful attempts to get a response to
23 his phone calls and written communications) dating as far back as 1994;
- 24 • Only in 2006, when the United States Department of Labor imposed new disclosure
25 requirements on the NFLPA, were the Plaintiffs able to obtain any more than the

26
27 ailing retired players is very negative for the mentally and physically ailing retired players.
28 Although professional football is an extremely violent game causing long-term injury, an
extremely low percentage of retired players receive disability payments. See, for example, **Exhibit**
H.

1 sketchiest information. However, even the expanded Form LM-2 Labor
2 Organization Annual Report, required by the United States Department of Labor
3 and filed by the NFLPA in 2006, does not provide all the information that Plaintiffs
4 need to determine that PLAYERS INC and the NFLPA are observing their fiduciary
5 duties. Before that document was filed, however, Plaintiffs did not discover (and,
6 in the exercise of reasonable diligence, could not have discovered) that facts had
7 been concealed;

- 8 • At or around the time of the NFLPA's filing of the 2006 LM-2 (which states that
9 the NFLPA has 3,700 retired members, up from zero reported the year before), four
10 of the top officers of PLAYERS INC announced their resignations. The then-
11 president of PLAYERS INC was quoted in the November 6-12, 2006 edition of
12 SportsBusiness Journal on the increased Department of Labor reporting
13 requirements as follows: "It's a real problem. We will have to deal with the
14 consequences and we are not happy about it.";
- 15 • PLAYERS INC has not, on information and belief, made diligent efforts to generate
16 revenue for members of the GLA Class; almost 90% of the GLA Class receive no
17 money;
- 18 • PLAYERS INC has not, on information and belief, allocated opportunities to the
19 members of the GLA Class in any fair or equitable manner;
- 20 • PLAYERS INC and/or the NFLPA has not, on information and belief, distributed
21 revenues to the members of the GLA Class that should have been distributed, even
22 to the small percentage of GLA Class members who have received some monies;
23 and
- 24 • PLAYERS INC has distributed monies to the NFLPA that have not benefited GLA
25 Class members and in contravention of their duties to the Class.

26 28. As a result of the unlawful conduct complained of above, Plaintiffs seek an
27 accounting of the funds received and distributed by PLAYERS INC in connection with its claimed
28 representation of retired players who signed a GLA. As an example of the need for an accounting,

1 the Total Income figure on Exhibit A of \$4,868,249 is off, on information and belief, by at least a
2 factor of ten. Plaintiffs also seek damages, in an amount to be proven at trial, which, on
3 information and belief, exceed the jurisdictional amount of \$5 million.

4 **C. THE NFLPA AND PLAYERS INC HAVE UNFAIRLY COMPETED AND**
5 **WRONGFULLY INTERFERED WITH THE MARKETING OF THE**
6 **IMAGES OF RETIRED NFL PLAYERS.**

7 29. In addition to violating the rights of those retired NFL players who signed a GLA
8 with the NFLPA, the NFLPA and PLAYERS INC have engaged in predatory and unlawful
9 conduct in connection with the marketing of retired NFL player images and downstream markets
10 like videogames. This conduct affects all retired players, regardless of whether or not they have
11 signed a GLA.

12 30. Because the NFLPA dominates the market for NFL player marketing by virtue of its
13 representation of almost all current NFL players under the CBA and thousands of retired players
14 pursuant to GLAs, those potential licensees who seek to use the names and likenesses of current
15 and former NFL players are forced to deal with the NFLPA. Through its assignment of the rights
16 of the NFLPA, PLAYERS INC carries the power of the NFLPA. On information and belief, in an
17 abusive and unlawful exercise of its power, the NFLPA has agreed upon a clause in its licensing
18 agreements with one or more potential licensees that requires all such licensees to deal only with
19 the NFLPA and not with any retired NFL player directly. In its license agreement with TOPPS
20 dated in 2004 and renewed in 2007, the NFLPA agreed with TOPPS upon the following clause:

21 11. NON-INTERFERENCE. Licensee agrees and acknowledges that it
22 shall not secure or seek to secure, directly from any player who is under
23 contract to an NFL club, is seeking to become under contract to an NFL
24 club, or at any time was under contract to an NFL club, or from such
25 player's agent, permission or authorization for the use of such player's
26 name, facsimile, signature, image, likeness, photograph, or biography in
27 conjunction with the licensed products herein.

28 **Exhibit C (page 8).**

31. Counsel for PLAYERS INC admitted before this Court during the hearing on May
31, 2007 that PLAYERS INC has a number of exclusive dealing arrangements.

1 32. PLAYERS INC also has an exclusive contract with Electronic Arts (sometimes
2 referred to as "EA"), which is headquartered in Redwood City, CA, and which, on information and
3 belief is the largest licensee of PLAYERS INC (paying PLAYERS INC over \$30 million in 2005
4 alone). Electronic Arts stated in a press release in December, 2004, that it had signed a five-year
5 exclusive licensing agreement with PLAYERS INC, giving Electronic Arts exclusive rights to
6 NFL players. Gene Upshaw, Chairman of both the NFLPA and PLAYERS INC, was quoted in
7 that press release as follows:

8 This exclusive relationship will maximize the value of NFL players through
9 EA's continued commitment to bring fans closer to the game.

10 The press release also describes the significant amount of commerce involved:

11 Madden NFL Football from the EA SPORTS(TM) brand has sold more
12 than 42 million copies over the franchise's 15 year history. Madden NFL
13 2005, the most complete football game ever, is available for the
14 PlayStation(R)2 computer entertainment system, Xbox(R) videogame
system from Microsoft, Nintendo GameCube(TM), Game Boy(R) Advance,
the PlayStation(R) console and PC. . .

15 Electronic Arts Inc. (EA), headquartered in Redwood City, California, is
16 the world's leading interactive entertainment software company. Founded
in 1982, EA posted revenues of \$2.96 billion for fiscal 2004.

17 * * *

18 The significant anticompetitive effects of the agreement between PLAYERS INC and EA
19 have been extensively reported in the financial press, the general press, and the videogame press.

20 For example:

21 *The Wall Street Journal*, July 11, 2005

22 In December [2004,] [EA] negotiated an exclusive right to make
23 videogames that use National Football League teams and players, knocking
Take-Two [another videogame manufacturer] and everyone else out of that
game for five years. . .

24 EA agreed to unprecedented prices in nailing down these deals: more than
25 \$400 million for the NFL rights. . .

26 Madden football has . . . racked up some \$1.5 billion in retail sales.

27 EA held 63% of the overall U.S. market for sports videogames as of last
year, estimates Arcadia Investment Corp., a research firm in Portland, Ore.

28 Instead of licensing multiple publishers, [the NFL and the NFLPA]

1 indicated early last year they would be willing to consider an exclusive
2 deal. Using such a system in apparel licensing – with Reebok International
3 Ltd. holding sole rights – had led to higher profits, the league and players
4 say.

5 Annualized, the contract brings the NFL and players; union roughly twice
6 what they got in the past from multiple licensees, say people familiar with
7 the matter.

8 EA’s exclusive licenses have reduced the threat of price wars, since Take-
9 Two and others, while they can still make football games, can no longer
10 depict NFL uniforms or stadiums or players.

11 * * *

12 *The Los Angeles Times*, August 24, 2006

13 Madden NFL has field to itself

14 Madden NFL is the only fully licensed NFL game on the market

15 And it has spawned a cottage industry of its own, such as the recent \$19.95
16 pay-per-view TV shows hyping the game’s new features.

17 . . . EA effectively bought out the competition . . .

18 * * *

19 *The Calgary Herald*, September 17, 2005

20 Exclusive deals sack competition: Gamers worry big money trumps choice

21 Video game players fear a new corporate deal will kill ingenuity in their
22 favorite football title, drive up prices and remove their freedom of choice.

23 The deal [with PLAYERS INC and the NFL] effectively killed all of EA
24 Sports’ competition in the genre.

25 Football games are the jewel in the sports genre and Madden has sold 40
26 million units since 1989.

27 Take Two [a videogame manufacturer] soon spoke out against these deals
28 in a release.

“We believe that the decisions of the (NFL) and Players Inc. to grant an
exclusive license for videogames do a tremendous disservice to the
consumers and sports fans whose funds ultimately support the NFL, by
limiting their choices, curbing creativity and almost certainly leading to
higher game prices,”

Gamers on chat sites and blogs claimed to be boycotting this year’s Madden
title because of what they viewed as predatory licensing. They complained
about the lack of purchase options and that EA would now rest on their
laurels rather than continue to develop.

“Madden was a disappointment this year,” [Jon] Robinson [sports video
game editor for review site IGN] says. “EA would have added more in the

1 games if they knew there was a competitor on the market.”

2 Still, Madden NFL ‘06, released last month, is enjoying great sales, moving
3 1.7 million copies in its first week.

4 * * *

5 *The Arizona Daily Star*, August 30, 2006

6 ‘Madden 07’ has video game all to itself

7 Thanks to an exclusive contract, “Madden NFL 07” is the only licensed
8 NFL game out this year, so fans are at publisher Electronic Arts’ mercy in
9 regard to the quality of the self-selling franchise.

9 * * *

10 *PlayStation Magazine*, March 1, 2005

11 NFL and EA Kill Competition

12 In short order, EA has garnered full control over the most profitable, best-
13 selling wedge of the sports-videogame pie, ensuring that no one else will
14 get a slice.

14 In a genre based on competition, this makes Madden a sort of monopoly,
15 effectively killing off the NFL 2K series, the biggest to EA’s long-standing
16 and legendary franchise.

16 There’s no question that this maneuver limits gamers’ choices if they’re
17 looking for an NFL-aided experience

17 Without impetus to outdo the competition, it stands to reason that the series
18 could very possible stagnate.

19 There’s the question of higher game prices. While nothing has been
20 officially announced, industry insiders say the final cost of the NFL deal is
21 somewhere north of \$300 million, a whopping sum that consumers will
22 ultimately pay for.

21 This is a bold and powerful move – one that borders on predatory licensing,
22 aimed solely to drive companies out of business. . .

23 33. These unfair restrictions are unreasonable and are designed to, and do, exclude
24 competitors from the market and enhance the economic domination of the NFLPA and PLAYERS
25 INC. PLAYERS INC’s unfair conduct has restrained, or is likely to restrain, competition by
26 raising prices, by decreasing competition for the marketing or licensing of NFL player images, and
27 by depriving potential licensees, as well as retired NFL players, of free and open competition for
28 licensing and marketing opportunities.

1 34. In addition, the NFLPA, by and through PLAYERS INC, has made false and
2 misleading statements designed to attain a monopoly over retired NFL player marketing, to induce
3 retired NFL players to become retired members of the NFLPA and/or to sign exclusive GLAs, and
4 to suggest to retired NFL players that the NFLPA and PLAYERS INC are the exclusive
5 representatives for retired NFL group marketing rights. These false and misleading statements
6 include claims that:

- 7 • The activities of PLAYERS INC benefit every retired player by paying “. . . 40%
8 of [its] operating revenue to [Defendant] NFL Players Association as a royalty,”
9 thereby “. . . allow[ing] the NFLPA to provide extensive services and benefits to
10 retired NFL players².”;
- 11 • the GLAs are “non-exclusive”, whereas the language of one or more of the forms of
12 the GLAs purports to “exclusively” grant certain rights to the NFLPA,
- 13 • all retired players, including but not limited to those who signed a GLA, will
14 effectively receive a guaranteed minimum payment; and
- 15 • PLAYERS INC represents specific numbers of retired NFL players, which numbers
16 are inconsistent and not reconcilable.

17 Members of the public, including Plaintiffs, have been deceived, and/or are likely to be
18 deceived, by Defendants’ false and misleading statements and other acts of unfair competition.

19 35. By purporting either to represent or to control access to the rights of all retired
20 players, by making exclusive arrangements and by its advertising and other mass communications
21 that disseminate this information in commerce, Defendants have either effectively cut off any
22 avenues for retired NFL players to deal directly with licensees or sponsors such as TOPPS and
23 Electronic Arts (which, according to PLAYERS INC’s website as of February 6, 2007, is the
24 world’s largest video game software manufacturer), or alternatively, Defendants have disseminated
25 false and misleading information to the public.

26 _____
27 ² Despite PLAYERS INC’s claim of substantial payments to the NFLPA benefiting retired
28 players, few retired NFL players receive the “extensive services and benefits” promised. Most
retired NFL players continue to receive only poverty-level pension payments.

VI. CLASS ACTION ALLEGATIONS

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2 36. Plaintiffs bring this class action on behalf of themselves and all others similarly
3 situated pursuant to Rule 23 of the Federal Rules of Civil Procedure. This action is maintainable
4 as a class action pursuant to Rule 23(a), (b) and (d).

5 **A. THE GLA CLASS**

6 37. Plaintiffs Herb Adderley and Bernard Parrish bring claims of breach of contract,
7 breach of fiduciary duty, or in the alternative, unjust enrichment on behalf of a nationwide class
8 seeking damages and an accounting (the "GLA Class").

9 38. The GLA Class is defined as all those retired NFL Players who at any time from
10 1997 to the present have sent an executed GLA to the NFLPA. Excluded from the GLA Class are
11 the NFLPA, PLAYERS INC, and their directors, officers and employees.

12 **B. THE 17200 CLASS**

13 39. Plaintiffs Roberts, Parrish and Adderley also represent a class of retired NFL
14 players nationwide who have been harmed by conduct violative of California Business and
15 Professions Code 17200 that has occurred in California (the "17200 Class").

16 40. The 17200 Class is defined as retired NFL players who have been harmed by
17 conduct occurring in California that is violative of Business & Professions Code 17200. Excluded
18 from the 17200 Class are the NFLPA, PLAYERS INC, and their directors, officers and employees.

19 **C. THE 17200 CALIFORNIA RESIDENT CLASS**

20 41. Plaintiff Walter Roberts, III brings claims for violation of the California unfair
21 competition law on behalf of California residents who are retired NFL players (the "17200
22 California Resident Class").

23 42. The 17200 California Resident Class is defined as all former NFL players who live
24 in California and who have been harmed by violations of Business & Professions Code 17200
25 nationwide. Excluded from the 17200 California Resident Class are the NFLPA, PLAYERS INC,
26 and their directors, officers and employees.

27 43. The above three Classes all meet the numerosity standard in Rule 23(a)(1) because,
28 although the exact numbers are unknown to Plaintiffs, on information and belief each alleged class

1 consists of at least hundreds of retired NFL players, who are geographically dispersed throughout
2 the United States, California and perhaps elsewhere. The joinder of each of these players is
3 impracticable. The disposition of their claims through this class action will provide substantial
4 benefits to both the parties and the Court.

5 44. The size of the three Classes and the identities of their individual members are
6 ascertainable through Defendants' records.

7 45. Members of these three Classes may be notified of the pendency of this action by
8 techniques and forms commonly used in class actions, such as by published notice, e-mail notice,
9 website notice, first class mail, or combinations thereof, or by other methods suitable to this class
10 and deemed necessary and/or appropriate by the Court.

11 46. There is a well-defined community of interest and common questions of law and
12 fact affecting the members of the 17200 Class and the 17200 California Residents Class as
13 required by 23(a)(2). The questions of law and fact common to these two Classes predominate
14 over any questions affecting only individual members and include, but are not limited to, the
15 following:

16 (a) Whether PLAYERS INC and/or the NFLPA have attempted to exclude retired NFL
17 players from direct dealings with licensees, and have thus unfairly competed in violation of
18 California law by the acts and omissions, among others described above;

19 (b) Whether the unlawful conduct of Defendants has allowed them to collect license
20 fees and royalties and distribute them among themselves, while depressing amounts paid to retired
21 players;

22 (c) Whether the conduct of PLAYERS INC and the NFLPA has injured Plaintiffs and
23 the two Classes they represent;

24 (d) Whether PLAYERS INC and/or the NFLPA have violated the California unfair
25 competition laws;

26 (e) Whether Plaintiffs and the two Classes are entitled to injunctive relief and/or
27 monetary relief as a result of the unlawful conduct of Defendants.

28

1 47. There is a well-defined community of interest and common questions of law and
2 fact affecting the members of the GLA Class as required by 23(a)(2). The questions of law and
3 fact common to the GLA Class predominate over any questions affecting only individual members
4 and include, but are not limited to, the following:

5 (a) Whether PLAYERS INC and/or the NFLPA have breached their fiduciary duties,
6 contractual obligations and non-contractual obligations to each player member of the Class by the
7 acts and omissions, among others described above;

8 (b) Whether Plaintiffs and the Class are entitled to an accounting showing all revenue
9 received by Defendant and whether and how that revenue was distributed to the NFLPA and
10 among the members of the Class;

11 (c) Whether PLAYERS INC and/or the NFLPA have been unjustly enriched at the
12 expense of Plaintiffs and the Class; and

13 (d) Whether Plaintiffs and the Class are entitled to damages, punitive damages, costs
14 and attorneys' fees as a result of the unlawful conduct of Defendants

15 48. Plaintiffs' claims are typical of the claims of the respective Classes that they
16 represent as required by Rule 23(a)(3). The claims of Plaintiffs and members of their respective
17 Classes are based on the same legal theories and arise from the same unlawful conduct.

18 49. Plaintiffs are adequate representatives of their respective Classes pursuant to Rule
19 23(a)(4) because their interests do not conflict with the interests of the Class members they seek to
20 represent, and, in fact, they are similarly situated with the members of their respective Classes.
21 Plaintiffs will fairly and adequately represent and protect the interests of their respective Classes.
22 Plaintiffs have retained counsel who are competent and experienced in the prosecution of class
23 action litigation.

24 50. This action is maintainable under Rule 23(b)(1)(A) because the prosecution of
25 separate actions could create the risk of inconsistent adjudication, which could establish
26 incompatible standards of conduct for the party opposing the three Classes. As an example,
27 separate actions for breach of fiduciary duty by Defendant could result in different adjudications as
28 to the scope or enforceability of that duty.

1 55. According to PLAYERS INC's website, retired players sign a Group Licensing
2 Agreement with the NFLPA. In turn, the NFLPA assigns (and will continue to assign) the rights
3 under those Agreement(s) to PLAYERS INC. On information and belief, some NFL players may
4 have also signed Group Licensing Agreement(s) directly with PLAYERS INC.

5 56. A version of the Group Licensing Agreement, executed by members of the GLA
6 Class including Parrish and Adderley, provided, in relevant part, that "... the monies generated by
7 such licensing of retired player group rights will be divided among the player, the Players
8 Assistance Trust and, to the extent necessary, may be used to cover the cost of administering the
9 Retired Player Group Licensing Program." (**Exhibit D**) (emphasis added).

10 57. On information and belief, a 2007 version of the Group Licensing Agreement –
11 attached as a "Sample GLA" to the NFLPA's Licensing Agreement with TOPPS – provides, in
12 relevant part, that "the NFLPA agrees to ... use its best efforts to promote the use of NFL player
13 image in group licensing programs, to provide group licensing opportunities to all NFL
14 players" (**Exhibit C**) (emphasis added).

15 58. On information and belief, Adderley, Parrish and other GLA Class members
16 performed any and all obligations required of them under the Group Licensing Agreement(s).

17 59. On information and belief, PLAYERS INC and/or the NFLPA breached their
18 various Group Licensing Agreement(s) with retired NFL players by the acts and omissions set
19 forth above. More specifically, with regard to the 2007 version of the Agreement referenced
20 above, Defendants failed to use their "best efforts" to promote opportunities for retired NFL
21 players as described in that Agreement. With regard to the other version of the Agreement
22 referenced above, Defendants failed to make royalty payments as promised to all players, and
23 diverted funds from PLAYERS INC to the NFLPA in breach of the GLA.

24 60. As a result of Defendants' breaches, Adderley, Parrish and other GLA Class
25 members have suffered damages.

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SECOND CAUSE OF ACTION

(Breach of Fiduciary Duty)

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3 61. Plaintiffs incorporate by reference paragraphs 1 through 60 above as though set
4 forth fully herein.

5 62. Defendants have a fiduciary duty to the retired players that at any time signed a
6 GLA with the NFLPA, a representation that is believed to generate hundreds of millions of dollars
7 for PLAYERS INC and/or the NFLPA.

8 63. Defendants have breached that duty by, among other things, the acts and omissions
9 described above.

10 64. As a direct and proximate result of Defendants' breaches of fiduciary duty, each
11 member of the GLA Class has suffered damages in an amount subject to proof that, collectively,
12 exceeds the jurisdictional minimum of the Court.

13 65. As a result of Defendants acts and or omissions, Plaintiffs and the GLA Class are
14 entitled to recover actual damages, punitive damages and attorney's fees.

THIRD CAUSE OF ACTION

(Unjust Enrichment/Restitution)

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16
17 66. Plaintiffs incorporate by reference paragraphs 1 through 65 above as though set
18 forth fully herein.

19 67. Plaintiffs have alleged that PLAYERS INC and/or the NFLPA have breached a
20 number of duties and obligations required of them under various GLAs entered into with retired
21 NFL players. To the extent that Defendants dispute that they have any such duties under the
22 Group Licensing Agreement(s) – and/or claim they have not breached any terms of those
23 Agreements – Plaintiffs allege that those Agreements would thus be considered illusory, null and
24 void and/or voidable.

25 68. Plaintiffs alternatively allege that PLAYERS INC and/or the NFLPA have unjustly
26 retained the benefit of the purported assignment of rights under the Group Licensing Agreement(s),
27 without paying Plaintiffs any fair compensation to Plaintiffs for this benefit.

28

1 69. Plaintiffs' status as former players in the NFL has provided significant value to
2 PLAYERS INC which has benefited PLAYERS INC and/or the NFLPA, and in the event the
3 Group Licensing Agreement(s) were considered illusory, it would be unjust to allow PLAYERS
4 INC and/or the NFLPA to retain this benefit without providing restitution to Plaintiffs.

5 70. PLAYERS INC and/or the NFLPA have retained the money or property of GLA
6 Class members against the fundamental principles of justice or equity and good conscience, and
7 Plaintiffs have been harmed by this conduct and are entitled to restitution or other relief deemed
8 proper by this Court.

9 **FOURTH CAUSE OF ACTION**

10 **(California Unfair Competition, Cal. Bus & Prof. Code § 17200)**

11 71. Plaintiffs incorporate by reference paragraphs 1 through 70 above as though set
12 forth fully herein.

13 72. Defendants engaged in fraudulent conduct as proscribed by Cal. Bus. & Prof. Code
14 § 17200 by the acts and omissions described above, including by making claims that:

- 15 • The activities of PLAYERS INC benefit every retired player by paying "... 40%
16 of [its] operating revenue to [Defendant] NFL Players Association as a royalty,"
17 thereby "... allow[ing] the NFLPA to provide extensive services and benefits to
18 retired NFL players";
- 19 • the GLAs are "non-exclusive";
- 20 • all retired players, including but not limited to those who signed a GLA, will
21 effectively receive a guaranteed minimum payment;
- 22 • PLAYERS INC represents specific numbers of retired NFL players; and
- 23 • dues payments to the NFLPA entitle retired players, among other things, to
24 licensing opportunities that generate guaranteed minimum payments.

25 73. Such statements were false, or were likely to mislead members of the public,
26 including retired NFL players and potential licensees of NFL player rights, and were made for the
27 purpose of improperly procuring NFLPA membership, NFL player rights and exclusive licensing
28

1 agreements for such rights and/or to cut off any avenues for the retired NFL players and potential
2 licensees to deal with one another directly.

3 74. In addition, Defendants engaged in practices that are unfair as proscribed by Cal.
4 Bus. & Prof. Code § 17200, by the acts and omissions described above, including:

- 5 • unfairly dominating and controlling (or attempting to control) licensing and
6 marketing opportunities for NFL player rights;
- 7 • by abuse of its power, entering into exclusive dealing arrangements with licensees,
8 whereby the licensees are precluded from procuring NFL player rights from anyone
9 other than Defendants; and
- 10 • unreasonably restraining competition for the licensing or marketing of NFL player
11 rights and/or in downstream markets for products like videogames.

12 75. Among other things, Defendants represented to the public, retired NFL players and
13 existing or potential licensees for NFL players rights that they were the sole and exclusive
14 representative of all NFL players with regard to commercial marketing and licensing opportunities.
15 By virtue of their economic dominance, Defendants also informed a number of retired NFL players
16 that the only opportunity to get paid for marketing or licensing opportunities was to enter into a
17 Group Licensing Agreement with PLAYERS INC and/or the NFLPA.

18 76. Defendants' practices have excluded competition and at least threaten to give
19 Defendants the ability to control prices for licensing of NFL player rights and/or for any resulting
20 licensed items bearing NFL player images, such as videogames. Defendants' practices have
21 effectively foreclosed Plaintiffs' ability to pursue these commercial opportunities on their own
22 behalf. PLAYERS INC's practices have also increased PLAYERS INC's monopoly (and/or
23 threaten to create a monopoly) over marketing and licensing opportunities available to retired NFL
24 players and other downstream markets like videogames.

25 77. These unfair practices threaten an incipient violation of federal and state antitrust
26 laws, and violate the spirit and policy of those laws. By foreclosing competition for NFL players'
27 rights, Defendants' practices violate both the policy and spirit of the Sherman Act's prohibition on
28 unlawful restraints of trade, monopolization and attempted monopolization, and the Cartwright

1 Act's prohibition on contracts or combinations in restraint of trade and otherwise significantly
2 harm or threaten competition. These unfair practices are comparable to or the same as a violation
3 of the antitrust laws.

4 78. Members of the public, including Plaintiffs, have been deceived, and are likely to be
5 deceived, by Defendants' false statements and acts of unfair competition.

6 79. Plaintiffs, and each member of the two Section 17200 Classes, have suffered injury
7 in fact, and have lost money or property (including but not limited to dues payments to the
8 NFLPA) as a result of Defendants' unfair competition.

9 80. As a result of Defendants' conduct, Plaintiffs have been harmed, and seek
10 injunctive relief, restitution, an accounting, a constructive trust, and any other relief this Court
11 deems appropriate.

12 **FIFTH CAUSE OF ACTION**

13 **(Accounting)**

14 81. Plaintiffs incorporate by reference paragraphs 1 through 80 above as though set
15 forth fully herein.

16 82. By virtue of the acts and omissions described above, Plaintiffs do not have adequate
17 information to determine what monies are attributable to them, and distributable to them, as a
18 result of Defendants' purported representation of them.

19 83. The exact amount of money received and distributed by PLAYERS INC in
20 connection with the licensing and marketing of Plaintiffs and the GLA Class, including monies
21 distributed to the NFLPA, is unknown and cannot be ascertained without an accounting of the
22 funds.

23 **VIII. PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, pray as
25 follows:

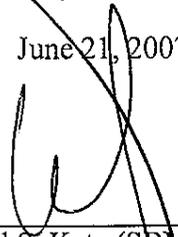
- 26 a. That the Court determines that this action may be maintained as a class action under
27 Rule 23 of the Federal Rules of Civil Procedure, and that Ronald S. Katz of
28 MANATT, PHELPS & PHILLIPS, LLP be appointed as lead class counsel.

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- b. That Plaintiffs and each and every member of the three Classes recover (i) damages determined to have been sustained by each of them, including punitive damages, (ii) injunctive relief, equitable relief (including but not limited to a constructive trust), and restitution as provided by law, and (iii) that joint and several judgments in favor of Plaintiffs and each and every member of the three Classes, respectively, be entered against the Defendant.
- c. That an accounting by accountants of the Plaintiffs' choice be ordered by the Court at the expense of the Defendant.
- d. That Plaintiffs and other members of the three classes recover their costs of this suit, including reasonable attorneys' fees, as provided by law.
- e. That Plaintiffs and the other members of the three classes be granted such other, further and different relief as the nature of the case may require or as may seem just and proper to this Court.

Respectfully submitted,

Dated: June 21, 2007



Ronald S. Katz (SBN 085713)
 Ryan S. Hilbert (SBN 210549)
 Noel S. Cohen (SBN 219645)
 MANATT, PHELPS & PHILLIPS, LLP
 1001 Page Mill Road, Building 2
 Palo Alto, CA 94304-1006
 Telephone: (650) 812-1300
 Facsimile: (650) 213-0260
Attorneys for Plaintiffs

Lewis T. LeClair, Esq.
 McKOOL SMITH, P.C.
 300 Crescent Court
 Suite 1500
 Dallas, TX 75201
 214-978-4984
 214-978-4044 (fax)

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OF COUNSEL

Jill Adler
MCKOOL SMITH, P.C.
300 Crescent Court
Suite 1500
Dallas, Texas 75201
(214)978-4000
(214)978-4044 (fax)

Samuel A. Mutch Esq.
SAMUEL A. MUTCH, P.A.
2114 N.W. 40th Terrace, Suite A-1
Gainesville, FL 32605
Telephone: (352) 378-5599
Facsimile: (352) 378-3388