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12 Attorneys for Plaintiffs/Petitioners  
 National Football League Players Association,  
 13 on its own behalf and on behalf of  
 Various Players

14  
 15 **UNITED STATES DISTRICT COURT**  
 16 **SOUTHERN DISTRICT OF CALIFORNIA**

17  
 18 THE NATIONAL FOOTBALL LEAGUE )  
 PLAYERS ASSOCIATION, on its own behalf and )  
 19 on behalf of Various Players, )  
 20 Plaintiffs/Petitioners, )  
 21 v. )  
 22 THE NATIONAL FOOTBALL LEAGUE )  
 MANAGEMENT COUNCIL, on its own behalf and )  
 23 on behalf of The Miami Dolphins, )  
 24 Defendants/Respondents. )

Case No. **'11CV2472L CAB**  
**COMPLAINT AND PETITION FOR  
 ORDER CONFIRMING  
 ARBITRATION AWARD AND  
 ENTRY OF JUDGMENT THEREON**

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1 Plaintiff/Petitioner National Football League Players Association (“NFLPA”), on  
2 its own behalf and on behalf of Various Players (collectively “Plaintiffs/Petitioners”), for its  
3 Complaint and Petition to confirm an arbitration award against Defendants/Respondents National  
4 Football League Management Council (“NFLMC”) and the Miami Dolphins, alleges as follows:

5 **INTRODUCTION**

6 1. Plaintiffs/Petitioners move pursuant to Section 301 of the Labor  
7 Management Relations Act (“LMRA”), 29 U.S.C. §185, and to the extent applicable, pursuant to  
8 the Federal Arbitration Act (“FAA”), to confirm an arbitration award (“the Award”) issued by  
9 National Football League (“NFL”) System Arbitrator Shyam Das (“Arbitrator Das”) on July 18,  
10 2011 in the arbitration captioned *In the Matter of the Arbitration between the National Football*  
11 *League Management Council/Miami Dolphins v. the National Football League Players*  
12 *Association/Variou s Players*. A true and correct copy of the Award is attached hereto as Ex. A.

13 2. The Award holds that the Implementation Agreement providing for a  
14 procedure to determine and grant equivalent benefits referred to in Article LIV of the Collective  
15 Bargaining Agreement (“Relevant CBA”)<sup>1</sup> and the choice of law provisions in Various Players’  
16 Contracts does not preclude or prohibit those Players from filing workers’ compensation claims in  
17 California and seeking benefits under otherwise applicable California law.

18  
19 **PARTIES**

20 3. The NFLPA is a labor organization that is certified by the National Labor  
21 Relations Board as the exclusive bargaining representative of all NFL Players.

22 4. The NFLMC is the exclusive bargaining representative of present future  
23 and employer member clubs of the NFL, including the Miami Dolphins.

24 5. One of the 32 franchises in the NFL, the San Diego Chargers, is  
25 headquartered in San Diego, California. Another two of the NFL’s franchises, the San Francisco

26 <sup>1</sup> The Award here arose from a grievance that was prosecuted under the 2006-2012 Collective  
27 Bargaining Agreement, which expired on March 3, 2011. The parties have since entered into a  
28 new Collective Bargaining Agreement.

1 49ers and the Oakland Raiders, are also headquartered in California. The NFL derives revenue  
2 from throughout the State of California through advertising, ticket sales, merchandising and  
3 broadcasting revenue.

4 6. Upon information and belief, the Dolphins is headquartered in Florida and  
5 is a member franchise of the NFL.

6 7. Upon information and belief, at all relevant times herein the Dolphins  
7 conducted business in California and actively scouted and recruited players in California. The  
8 Dolphins derives revenue from the State of California through advertising, ticket sales,  
9 merchandising and broadcasting revenue.

#### 10 **JURISDICTION AND VENUE**

11 8. This action arises under Section 301 of the LMRA, as the Award was made  
12 pursuant to a collective bargaining agreement.

13 9. This Court has subject matter jurisdiction in this action pursuant to 28  
14 U.S.C. § 1331, in that it arises under Section 301 of the LMRA.<sup>2</sup> Venue is proper in this Court  
15 under 28 U.S.C. § 1391 and 29 U.S.C. § 185.

#### 16 **BACKGROUND**

17 10. The parties are bound by a collective bargaining agreement negotiated  
18 between the NFLMC, on behalf of the NFL teams, and the NFLPA, on behalf of all NFL players.

19 11. Article IX of the Relevant CBA contains an arbitration provision which  
20 mandates that all disputes between the parties involving the enforcement or interpretation of the  
21 Relevant CBA be submitted to final and binding arbitration before a mutually selected arbitrator.  
22 Under the terms of the Relevant CBA, a “non-injury grievance” may be initiated by a player, a

23 <sup>2</sup> Section 301 of the LMRA, rather than the FAA, provides federal courts with jurisdiction over  
24 labor arbitration awards. *See Sprewell v. Golden State Warriors*, 266 F.3d 979, 986 (9th Cir.  
25 2001) (“Section 301 empowers this court to review an arbitration conducted under the terms of a  
26 collective bargaining agreement.”); *San Diego County Dist. Council of Carpenters of United Bhd.  
27 of Carpenter & Joiners of Am. v. Cory*, 685 F.2d 1137, 1141 (9th Cir. 1982) (noting that Congress  
28 did not intend for the FAA to be used to review arbitration awards involving collective bargaining  
agreements). However, the law relative to the FAA governs cases brought under Section 301 with  
respect to arbitral awards. *Granite Rock v. Int’l Bhd. of Teamsters*, 130 S. Ct. 2847, 2857 n.6  
(2010).

1 member team, the NFLMC, or the NFLPA by filing a written notice to the opposing parties. A  
2 true and correct copy of Article IX of the Relevant CBA is attached hereto as Ex. B.

3           12. All NFL teams and players are bound by the standard player contract, the  
4 NFL Player Contract, negotiated between the NFLPA on behalf of players and the NFLMC on  
5 behalf of teams (“NFL Player Contract”). The NFL Player Contract is contained within and part  
6 of the CBA, although NFL Clubs and NFL Players may add consistent additional terms to the  
7 NFL Player Contract.

8           13. NFL players who are injured while playing professional football are entitled  
9 to a number of benefits under the CBA, and state law. Among these benefits are state workers’  
10 compensation benefits.

11           14. In some states, like Florida, however, professional sports teams need not  
12 provide workers’ compensation benefits to their employees.

13           15. In any such state in which professional sports teams need not provide  
14 workers’ compensation benefits to their employees, Article LIV, Section 1 of the Relevant CBA  
15 mandates that the Team will “either voluntarily obtain coverage under the compensation laws of  
16 that state or otherwise guarantee equivalent benefits to its players.” A true and correct copy of  
17 Article LIV of the Relevant CBA is attached hereto as Ex. C.

18           16. Florida’s Workers’ Compensation Law excludes professional athletes from  
19 coverage under that state’s workers’ compensation regime. Hence, players for NFL teams in  
20 Florida like the Dolphins do not qualify for workers’ compensation benefits under Florida law.

21           17. Pursuant to Article LIV of the Relevant CBA, players for the Dolphins are  
22 entitled to “equivalent benefits” – *i.e.*, the same benefits available under Florida law to other  
23 injured workers.

24           18. To that end, the Relevant CBA specifically provides that “[i]n any state  
25 where a Club (e.g., Miami Dolphins/Florida) has legally elected not to be covered by the workers’  
26 compensation laws of that state, the equivalent benefit, if any, to which a player may be entitled  
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24. A hearing was held before Arbitrator Das on April 12, 2011.

25. On July 18, 2011, Arbitrator Das issued the Award in favor of the NFLPA.  
*See Ex. A.*

26. In the Award, Arbitrator Das held that “[t]here is nothing in Article LIV, or any other cited provision of the CBA, which addresses, let alone purports to restrict, a player’s filing a statutory claim for workers’ compensation under the law of any state.” *Id.* at 45. Further, the Implementation Agreement did not bar players from filing statutory claims outside of Florida. *Id.* at 18-20. Arbitrator Das also held that “the choice of law provisions in the NFL Player Contracts of 30 of the Players are not, as a matter of contract, effective to preclude or prohibit those Players from filing workers’ compensation claims in California and seeking benefits under otherwise applicable California law.” *Id.* at 22.

27. The July 18, 2011 Award is a final award.

**PETITION/PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs/Petitioners respectfully pray that, pursuant to Section 301 of the LMRA, this Court grant this Complaint and Petition and enter judgment confirming the arbitration Award.

Dated: October 25, 2011

DEWEY & LeBOEUF LLP

By: \_\_\_\_\_ /s/ - Matthew M. Walsh

Attorneys for Plaintiffs/Petitioners  
NATIONAL FOOTBALL LEAGUE PLAYERS  
ASSOCIATION, ON ITS OWN BEHALF AND ON  
BEHALF OF VARIOUS PLAYERS

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**TABLE OF CONTENTS**

- 1. Ex A – Arbitration Award
- 2. Ex B - Article IX of the Collective Bargaining Agreement
- 3. Ex C – Article LIV of the Collective Bargaining Agreement
- 4. Ex D - Implementation Agreement Regarding Local Processing of Miami Dolphins Workers’ Compensation Claims

# **EXHIBIT A**



SHYAM DAS, ARBITRATOR

In the Matter of Arbitration ) ARBITRATOR'S OPINION  
Between ) AND AWARD  
)  
)  
)  
)  
THE NATIONAL FOOTBALL LEAGUE ) Miami Dolphins Workers'  
MANAGEMENT COUNCIL ) Compensation Claims  
On Behalf of The Miami Dolphins ) (Implementation Agreement/  
(Choice of Law)  
)  
)  
and ) Case Heard:  
) April 12, 2011  
)  
THE NATIONAL FOOTBALL LEAGUE )  
PLAYERS ASSOCIATION ) Award Issued:  
and Various Players ) July 18, 2011

Appearances

For the NFL Management Council:

Brook F. Gardiner, Esq.  
Daniel L. Nash, Esq.  
Stacey R. Eisenstein, Esq.  
Ruth B. Stevenson, Esq.

For the Various Players:

Adam J. Kaiser, Esq.  
Jeffrey H. Newhouse, Esq.  
Matthew A. Stark, Esq.

BACKGROUND      Miami Dolphins Workers'  
Compensation Claims

This case involves consolidated grievances filed by the Miami Dolphins and the National Football League Management Council (NFLMC) against various former Dolphin players (Players) who, between 2008 and 2011, filed claims for workers' compensation benefits before the California Workers' Compensation Appeals Board (WCAB).<sup>1</sup> The grievances contend that the filing of these claims in California violated the terms of the 2006 NFL Collective Bargaining Agreement (CBA) and the Implementation Agreement applicable to Miami Dolphin players that was entered into by the NFLMC and the NFL Players Association (NFLPA) on December 20, 1985. The Dolphins further claim that 30 of the Players also breached specific addenda to their NFL Player Contracts that require them to file their workers' compensation claims exclusively under Florida law.<sup>2</sup>

The 2006 CBA expired on March 3, 2011. On or before that date, the NFLPA decertified as a Union representing NFL players. A total of 107 of the 123 (or 124) Players against whom grievances were filed by the Dolphins have consented to be represented in this proceeding by the law firm of Dewey & LeBoeuf LLP (see Exhibit A to post-hearing brief filed by Dewey & LeBoeuf). In accordance with a ruling I made at the outset of the arbitration hearing on April 12, 2011 (see Transcript pp.

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<sup>1</sup> One Player, Kendal Newson, filed a claim in Pennsylvania. Any reference to Players filing claims in California and under California law includes Newson's claim in Pennsylvania.

<sup>2</sup> By agreement, both parties have reserved the right to assert any claims or defenses pertaining to timeliness and damages in a separate, supplemental hearing in the event the NFLMC and the Dolphins prevail on either of the issues set forth above.

6-7), the remaining Players also are bound by this Opinion and Award.

Since at least 1977, if not earlier, the CBA has included an "equivalent benefits" provision, which is set forth in Article LIV, Section 1 of the expired 2006 CBA as follows:

*Section 1. Benefits:* In any state where workers' compensation coverage is not compulsory or where a Club is excluded from a state's workers' compensation coverage, a Club will either voluntarily obtain coverage under the compensation laws of that state or otherwise guarantee equivalent benefits to its Players. In the event that a Player qualifies for benefits under this section, such benefits will be equivalent to those benefits paid under the compensation law of the state in which his Club is located.

At all relevant times, Florida workers' compensation law has excluded professional athletes from mandatory coverage, and the Dolphins have opted to provide equivalent benefits under the provision quoted above. In 1982, the parties adopted the following provision set forth in Article LIV, Section 3 of the CBA:

*Section 3. Arbitration:* In any state where a Club (e.g., Miami Dolphins/Florida) has legally elected not to be covered by the workers' compensation laws of that state, the equivalent benefit, if any, to which a Player may be entitled under this Article will be determined under the grievance procedure of Article IX (Non-Injury Grievance).

On December 20, 1985 the parties entered into an Implementation Agreement Regarding Local Processing of Miami Dolphins Workers' Compensation Claims (Implementation Agreement). Timothy English, then Staff Counsel for the NFLPA, was the primary drafter of the Implementation Agreement. He testified in the present arbitration that:

In the late '70s and early '80s players, and even before that, players filed all sorts of different types of claims for Workers' Compensation. Some players filed lawsuits, some players filed Workers' Comp claims despite the fact that professional athletes weren't covered. Some players wrote letters to the Dolphins. Some players filed grievances. It was all over the lot. And so I'm not exactly sure how, but the parties, after the '82 agreement, finally decided that they would try to get a handle on all these claims that were floating around out there. And then I was asked to see if I could put together an agreement. I don't know if this Implementation Agreement is sort of a hybrid arbitration agreement, but the purpose of it was to provide a simple and hopefully short method for players to litigate their claims for Workers' Comp.

The Implementation Agreement includes the following provisions:

The NFL Players Association (NFLPA) and the NFL Management Council (NFLMC) hereby agree to the following Implementation Agreement dealing with local processing of

workers' compensation claims made to the Miami Dolphins. It is the intention of the parties that this procedure provide the "equivalent benefits" referred to in Article XXXVIII of the 1977 Collective Bargaining Agreement and Article XXXVI of the 1982 Collective Bargaining Agreement [Article LIV of the 2006 CBA].

1. In order to insure the efficient and expeditious processing of pending and future claims of workers' compensation benefits by its players, the Miami Dolphins will appoint, as soon as practicable, a servicing agent who is knowledgeable about, and experienced in handling claims under, the Florida Workers Compensation Law....

2. The workers' compensation rights and benefits to which Miami Dolphin players are entitled are the same as those set forth for other employees in the Florida Workers' Compensation Law, as amended, and as interpreted in the Florida Courts except as modified by this Agreement and the 1977 and 1982 CBAs. It is the intent of the parties to avoid litigation of workers' compensation claims by routinely resolving any issue or disputes which may arise between the servicing agent and the player through a fair and reasonable application of the Florida Workers' Compensation Law.

3. In the event a dispute arises which cannot be amicably resolved between the servicing agent and the player, the procedures set forth below will be followed to achieve a swift, final and binding resolution of the dispute. The Dolphins players as professional athletes do not have access to state workers' compensation officials or the state workers' compensation agency. Although the 1982 CBA provides that

the method of determining what benefits a player will be entitled to shall be the non-injury grievance procedure of that document, the parties agree that the establishment of a local arbitration system is a more desirable method of determining entitlement to benefits. Accordingly, an independent panel of arbitrators shall be established to determine equivalent benefits. It is the intent of the parties to equate this arbitration procedure to the Florida Workers' Compensation Law to the extent possible except as modified by this Agreement and the 1977 and 1982 CBAs.

\* \* \*

11. The following areas of the Florida Workers' Compensation Law will not apply:

- a. criminal penalties
- b. special disability fund
- c. services provided by the Division of Workers' Compensation or by the Deputy Commissioners, except as set forth herein

Any disputes regarding the agreement of the parties to exclude certain provisions of the Florida Workers' Compensation Law from this Agreement shall be resolved through negotiation of the parties or by the arbitration procedure set forth in Article VII of the 1982 CBA [Article IX of the 2006 CBA].

\* \* \*

13. In consideration for the provision of the workers' compensation benefits provided by the 1977 and 1982 Collective Bargaining Agreements, the NFLPA on behalf

of players or former players of the Dolphins grants the Dolphins the same immunities from suit by those players and their families that other employers in Florida enjoy with respect to such suits on account of coverage under the Florida Workers' Compensation Law. It is the position of the NFLMC that such immunity has been conferred by virtue of the provisions of the 1977 and 1982 Collective Bargaining Agreements which granted the players equivalent benefits.

Sylvia Krainin, a workers' compensation attorney for the Dolphins, testified that since 1985 over 100 claims have been filed under the Implementation Agreement, mostly by players living outside Florida. Since 2009, she stated, only one such claim has been filed. She noted that a number of the Players who since have filed claims in California first filed claims under the Implementation Agreement.

Modesto Diaz, a workers compensation attorney who represents NFL players filing claims in California, testified that records of his firm show that at least 14 former Dolphin players filed for benefits in California between 1985 and the summer of 2008 and settled their claims against the Dolphins, often for significant sums of money. During that period, he stressed, the Dolphins never raised the Implementation Agreement as a defense.<sup>3</sup>

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<sup>3</sup> Diaz stated that, both before and after the Implementation Agreement was adopted in 1985, the Dolphins, like other out-of-state employers, routinely raised "jurisdiction" as a defense (expressly or under "all affirmative defenses"). He pointed out, however, that the Dolphins made general -- not special -- appearances, and in each of the cases settled the claim.

In June 2008, Carol Wittenberg, then an arbitrator for the Arena Football League and the AFL Players Association, issued a decision in a case between the Tampa Bay Storm and the AFLPA, involving players Ronney Daniels and Ignacio Brache, who had filed workers' compensation claims against the Storm in California. The Storm asserted in its grievance that the AFL Implementation Agreement -- which is similar to the NFL Implementation Agreement -- banned its former players from filing for workers' compensation benefits outside Florida. Wittenberg sustained the grievance. Subsequently, the Dolphins began to assert the NFL Implementation Agreement as a defense to claims brought in California by former Dolphins Players and filed the grievances at issue in this arbitration.<sup>4</sup>

As previously indicated, the NFL Player Contracts of 30 of the Players covered by the present grievances include addenda that state the following (or words to the same effect):

CHOICE OF LAW. Club and Player acknowledge and agree that this Contract has been negotiated and executed in the State of Florida, and that should any dispute, claim, or cause of action (collectively "Dispute") arise concerning the rights or liabilities arising from the relationship between Player and Club, then such parties hereto agree that the law governing such Dispute shall be

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<sup>4</sup> Meanwhile, in the Daniels/Brache AFL case Arbitrator Jack Clarke granted a request for reconsideration of Wittenberg's decision filed by the AFLPA and reversed her decision. (It is unnecessary in this NFL case to detail how this all occurred under the AFL collective bargaining agreement.)



the law of the State of Florida. Furthermore, Player and Club acknowledge and agree that the exclusive jurisdiction for resolving injury related claims shall be the Division of Workers' Compensation of Florida, and in the case of a Workers' Compensation claim the Florida Workers' Compensation Act shall govern.

#### MIAMI DOLPHINS' POSITION

The Dolphins insist that by filing workers' compensation claims in California the Players have violated the Implementation Agreement. Read in their entirety, the CBA and the Implementation Agreement unambiguously require Dolphins players to bring all workers' compensation claims against the Dolphins before the implementation panel. In this regard, the Dolphins point to the words "will be followed" and "shall be established" in Paragraph 3 of the Implementation Agreement and argue that they are mandatory in nature.

The Dolphins further argue that even if this arbitrator finds the terms of the CBA and Implementation Agreement to be ambiguous, the Implementation Agreement must be interpreted and applied in a manner that gives effect to its purpose. The Implementation Agreement spells out that the intention of the parties is to require the "local processing of workers' compensation claims made to the Miami Dolphins." Evidence presented at the hearing regarding drafting and adoption of the Implementation Agreement provides additional

support for this conclusion.<sup>5</sup> The Implementation Agreement also explicitly states: "It is the intent of the parties to avoid litigation of workers' compensation claims...." The Dolphins stress that the Implementation Agreement provides for no exceptions to these agreed-upon procedural rules.

The Dolphins assert that the parties' past practice further establishes that all workers' compensation claims must be resolved before the implementation panel. For almost 25 years, Dolphins players consistently filed claims for benefits under the procedure set forth in the Implementation Agreement. Between 1985 and 2007, more than 100 players filed such claims, including players who lived outside of Florida as well as players who sought compensation based on injuries sustained across the country, including in California. Compared to the parties' consistent practice of filing all claims before the implementation panel for over 25 years, the fact that the Dolphins allowed a *de minimis* number of claims to go forward in California -- in each of which the Dolphins asserted a lack of jurisdiction and the claim later was settled -- does not

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<sup>5</sup> The Dolphins note that one of the outstanding claims against the Dolphins when the Implementation Agreement was finalized was a claim by Terry Robiskie filed with the Missouri Division of Workers' Compensation. After the NFLPA notified Robiskie's workers' compensation attorney -- who also represented other Dolphins players -- that he could begin processing claims before the implementation panel, Robiskie dismissed his Missouri claim and instead submitted it to the panel. The Dolphins argue this makes clear that the parties intended to require that all workers' compensation claims be processed using the Implementation Agreement procedures, not just those claims that otherwise would have been filed under Florida law.

undercut the evidence of the dominant and controlling practice or show that the Dolphins acquiesced in the filing of these claims in California.

The Dolphins also argue that in addition to being bound by the mandatory arbitration provisions of the Implementation Agreement, a number of the Players included in these grievances further agreed in their NFL Player Contracts that the "Florida Workers' Compensation Act shall govern" all workers' compensation claims against the Dolphins. The fact that the provision in the NFL Player Contract mistakenly refers to "the Division of Workers' Compensation of Florida," rather than the implementation panel, does not render the entire clause unenforceable. This clause unambiguously constitutes a choice of law provision and must be enforced in accordance with its plain meaning.

The Dolphins also insist that the "law of the shop" further compels a finding that the Players have violated the clear terms of the Implementation Agreement and the choice of law provisions in their NFL Player Contracts. It cites two recent NFL arbitration decisions which make clear that where the parties agree to provisions dictating the forum and the law to be applied to their workers' compensation claims those provisions must be enforced regardless of any state law considerations to the contrary. See: Tennessee Titans v. Matthews (Sharpe 2010) and Chicago Bears v. Michael Haynes et al. (Townley 2011).

The Dolphins do not dispute that Florida law allows employees to seek benefits in other states; nor do they dispute that the players would be free to raise this argument before the implementation panel. This does not, however, alter the fact that by filing their California claims the Players have breached the mandatory terms of the Implementation Agreement and their Player Contracts.

The Dolphins argue that NFL arbitration precedent requires the arbitrator to interpret the parties' agreement, not state workers' compensation laws. In addition to Matthews and Haynes, the Dolphins cite decisions by this arbitrator in NFLPA v. Dallas Cowboys and Houston Texans (2005) and NFLPA v. Buffalo Bills, New York Jets and Carolina Panthers (2007). Furthermore, the Dolphins maintain that California law does not preclude enforcement of the parties' agreement. A forum selection clause dictating where employees can litigate workers' compensation claims is not a waiver of rights, but simply constitutes a selection of a particular jurisdiction in which they may recover benefits. Even if the Implementation Agreement's mandatory arbitration provisions did constitute a "waiver", it would not be a bar to enforcement. Indeed, in denying the Union's effort to vacate the Matthews arbitration award, a Federal District Court made clear that "California law does not provide an explicit well-defined, and dominant public policy barring all contractual waivers of California workers' compensation." See: NFLPA v. NFLMC, 2011 U.S. Dist. LEXIS 865 at \*14 (S.D. Cal. 2011).

The Dolphins request that the arbitrator order the Players to dismiss their California claims and declare that the exclusive method for Dolphins players to recover workers' compensation benefits against the Dolphins is through the procedures established in the CBA and Implementation Agreement.

VARIOUS PLAYERS' POSITION

The Players argue there is nothing in the expired CBA or Implementation Agreement that purports to limit any player's right to file for benefits in any state forum. On the contrary, the right to file for benefits in other states is expressly preserved. The Players point out that Article LIV, Sections 1-3, of the CBA provide for "equivalent benefits." These are contractual rights, created by, and subject to, the parties' contracts. These provisions do not say, or imply, that if a player qualifies for equivalent benefits, he must apply for them, or that they are exclusive. There is no mention of any benefits under state statutes.

The Players also insist that the Implementation Agreement does not purport to limit the ability of players to seek benefits in other states. Only when a player files a claim for equivalent benefits and the designated servicing agent denies the claim is there a dispute that is subject to mandatory arbitration under the Implementation Agreement. Not only does the Implementation Agreement contain no language even remotely hinting at any waiver or forfeiture of the right of players to pursue claims under other states' statutes, but that right

actually is confirmed in the Implementation Agreement. Under Florida law, players have the express statutory right to seek benefits in other states with the Dolphins receiving a statutory credit for payments made under Florida law.<sup>6</sup> Because the CBA and Implementation Agreement expressly grant all players with all rights under Florida law except for those rights specifically enumerated in Section 11 of the Implementation Agreement, the right to file claims for benefits in other states actually is one of the equivalent benefits conferred upon the players by contract.

The Players contend that to the extent the addendum to the NFL Player Contracts of some of the Players purports to limit the rights of those Players to file for benefits in other states, it is inconsistent with the right to equivalent benefits afforded to them under the CBA and Implementation Agreement and, hence, is void under Article XIV, Section 3 of the CBA. The Players stress that the language in the addendum makes no sense at all. How can there be "exclusive jurisdiction" in Florida's workers' compensation tribunals when, under Florida law, the

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<sup>6</sup> The Players have cited the following provision in the Florida Workers' Compensation statute: "If an accident happens while the employee is employed elsewhere than in this state, which would entitle the employee or his or her dependents to compensation if it had happened in this state, the employee or his or her dependents are entitled to compensation if the contract of employment was made in this state, or the employment was principally localized in this state. However, if an employee receives compensation or damages under the laws of any other state, the total compensation for the injury may not be greater than is provided in this chapter." Fla. Stat. §440.09(1)(d).

Dolphins cannot be sued in Florida's workers' compensation tribunals? Moreover, the Implementation Agreement purports to require arbitration of claims for benefits under Florida law. The Players stress that the Dolphins have not explained how the Club could foist upon the Players a choice of forum provision that requires the Players to forego arbitration of Florida claims (as contemplated under the Implementation Agreement) and to file claims in a tribunal having no subject matter jurisdiction over the claim. The Players assert that the statutory rights under Florida law to file claims for benefits in other states -- which rights do not exist because the Dolphins are exempt under Florida law -- were recast as bargained-for contract rights in the CBA and Implementation Agreement. In addition, the Players assert that it is hard to understand how the choice of forum provision in the addendum, which clearly is void because the Players cannot file claims in Florida state tribunals, can be separated from the choice of law provision which is tethered to the choice of forum provision. It is clear, the Players assert, that the choice of law provision is meant to apply when claims are brought in Florida tribunals (where they cannot be brought) and not independently.

The Players argue that this grievance should still be denied even if the Implementation Agreement and/or NFL Player Contract provisions were to be interpreted as requiring the filing of claims only under the Implementation Agreement because any award in favor of the Dolphins would violate clear legal precedent. California and Pennsylvania statutes, and decisions of the United States, California and Pennsylvania Supreme

Courts, as well as other legal rulings, demonstrate that neither the Union nor the individual Players could legally waive the right to seek workers' compensation benefits under California's and Pennsylvania's state statutes. Any attempt to do so is void and unenforceable. It is axiomatic that a union and employer may not contract to take away from employees state law benefits that improve their health, safety or welfare. See: Met. Life Ins. Co. v. Massachusetts, 471 U.S. 724 (1985); Livadas v. Bradshaw, 512 U.S. 107 (1994); Lingle v. Norge Div. of Magic Chef, Inc., 486 U.S. 399 (1988); Hawaiian Airlines Inc. v. Norris, 512 U.S. 246 (1994) and Alaska Packers Ass'n v. Industrial Accident Comm'n, 294 U.S. 532 (1935). Under the Full Faith and Credit clause of the United States Constitution, as interpreted in U.S. Supreme Court decisions starting with Alaska Packers, any state with a legitimate interest in a workers' compensation claim, such as when an injury occurs within its borders, may apply its own laws even if they are contrary to the laws of another state.

The Players contend that this arbitrator is not bound by the NFL arbitration decisions in Matthews or Haynes. In both those cases, the arbitrator ruled that choice of law or choice of forum clauses similar to those at issue here barred players from seeking benefits in California. But in this case, no matter how one interprets or applies such clauses, they are without effect for reasons previously stated. In addition, the Players maintain that those awards are wrongly decided. They require the parties to violate state law because they force the Players to give up rights that California and Pennsylvania, like



virtually every other state, statutorily prohibit them from giving up. The Players also insist that the Federal District Court decision confirming the Matthews award was wrongly decided, and point out that decision currently is on appeal before the Ninth Circuit Court of Appeals.

The Players argue that when an arbitrator confronts a conflict between external law, such as the California and Pennsylvania statutes here, and a contract that he is being asked to enforce or interpret, the arbitrator must decide whether the contract language should be enforced as written or whether that language is superseded by external law. That is, an arbitrator must decide if he will issue an award that is void and unenforceable or if he will issue an award that applies external law. The Players argue that this arbitrator should consider and apply external law to reach the conclusion that neither employees nor their unions can waive their right to seek workers' compensation benefits under California and Pennsylvania law. If the arbitrator, however, determines that he does not have jurisdiction to apply external law, the Players request that he expressly state so.

#### FINDINGS

##### CBA/Implementation Agreement

Article LIV, Section 1 requires that a Club that is not covered by the workers' compensation laws of the state in which it is located "otherwise guarantee equivalent benefits to

its Players." Section 1 defines such benefits as "equivalent to those benefits paid under the compensation law of the state in which his Club is located." Section 3, which was adopted in the 1982 CBA, provides that the "equivalent benefit, if any, to which a Player may be entitled under this Article" will be determined under the non-injury grievance procedure of Article IX. There is nothing in Article LIV, or any other cited provision of the CBA, which addresses, let alone purports to restrict, a player's filing a statutory claim for workers' compensation under the law of any state.<sup>7</sup>

The 1985 Implementation Agreement states in its introductory paragraph:

It is the intention of the parties that this procedure provide the "equivalent benefits" referred to in Article XXXIII of the 1977 Collective Bargaining Agreement and Article XXXVI of the 1982 Collective Bargaining Agreement [Article LIV of the 2006 CBA].

Paragraph 3 of the Implementation Agreement provides a mandatory arbitration procedure for resolving disputes between players and the servicing agent appointed by the Dolphins to handle claims for equivalent benefits through application of the Florida Workers' Compensation Law, as if it applied to those players. Any such dispute as to equivalent benefits must be processed

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<sup>7</sup> That more than one state might have an interest in and provide coverage to a particular injured employee long has been recognized. See: Alaska Packers (U.S. Supreme Court 1935).

before the implementation panel "established to determine equivalent benefits."

The Implementation Agreement says nothing about a Dolphins player's right to file a workers' compensation claim in some other state under its law. The Implementation Panel is empowered only to apply Florida Workers' Compensation Law, not the law of some other state.<sup>8</sup> The Implementation Agreement does not include language that reasonably, let alone clearly and unmistakably, expresses or implies that Dolphins players are contractually barred from bringing a workers' compensation claim in another state under its law.

The Dolphins, nonetheless, contend that the Implementation Agreement must be interpreted and applied to give effect to its purpose. The Dolphins claim that the purpose is to require the "local processing of workers' compensation claims made to the Miami Dolphins," as set forth in the introductory paragraph. But what that paragraph states is that the

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<sup>8</sup> The parties agree that Florida law permits an employee to seek benefits under the laws of other states, subject to a credit, and the Dolphins assert that the Players would be free to raise this argument before the implementation panel. But I do not find anything in the Implementation Agreement that suggests that in applying Florida law that panel would or could grant benefits under some other state's law, any more than a Florida workers' compensation tribunal applying Florida law would or could do so. But even if it could, the evidence does not show that the Union clearly and unmistakably agreed to waive a Dolphins player's right to present such a claim in a California judicial forum. See: Wright v. Universal Maritime Service Corp., 525 U.S. 70 (1998) and 14 Penn Plaza, LLC v. Pyett, 129 5.Ct. 1456 (2009).

Implementation Agreement is an agreement "dealing with local processing" of claims, and that it establishes a procedure intended to provide the "equivalent benefits" referred to in Article LIV of the CBA. Prior to the Implementation Agreement there was no uniform or efficient procedure to accomplish that result. The parties expressed their intent in Paragraph 2 "to avoid litigation of workers' compensation claims by routinely resolving any issue or disputes which may arise between the servicing agent and the player through a fair and reasonable application of the Florida Workers' Compensation Law."

(Emphasis added.) The servicing agent's role is to facilitate the provision of the equivalent benefits guaranteed in Article LIV of the CBA. As the parties stated in Paragraph 3:

Although the 1982 CBA provides that the method of determining what benefits a player will be entitled to shall be the non-injury grievance procedure of that document, the parties agree that the establishment of a local arbitration system is a more desirable method of determining entitlement to benefits. Accordingly, an independent panel of arbitrators shall be established to determine equivalent benefits.

The evidence does not indicate that the purpose of the Implementation Agreement went beyond providing a local arbitration system for determining and granting equivalent benefits. The parties may have presumed that this system would be utilized by most injured Dolphins players, but that does not show that they intended to bar players from filing statutory claims elsewhere.

That a high, or even very high, percentage of the claims filed between 1985 and 2008 by former Dolphins players was filed under the Implementation Agreement also does not establish a consistent practice from which it should be concluded that the parties to the Implementation Agreement mutually considered it to be the exclusive procedure for filing any and all workers' compensation claims. At least 14 claims were filed by Dolphins players in California during that period, and, yet, prior to the 2008 AFL decision by Arbitrator Wittenberg, the Dolphins never cited the Implementation Agreement in defending against any of those claims. Moreover, while the Dolphins typically raised all possible defenses, including jurisdiction, in their answers, they proceeded to settle all of those 14 claims.<sup>9</sup>

#### "Choice of Law" Provision in NFL Player Contract

The NFL Player Contracts of 30 of the Players covered by the present grievances include a provision that states in relevant part:

Furthermore, Player and Club acknowledge and agree that the exclusive jurisdiction for resolving injury related claims shall be the Division of Workers' Compensation of Florida, and in the case of a Workers'

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<sup>9</sup> The record further indicates that out-of-state employers routinely raise jurisdiction as a defense to claims filed in California, and that the Dolphins did not make special appearances to contest jurisdiction.

Compensation claim the Florida Workers' Compensation Act shall govern.

This provision not only conflicts with Article LIV of the CBA and the Implementation Agreement, but, on its face, it makes no sense and is unenforceable. The Florida Workers' Compensation Act does not apply to Miami Dolphins players, and the Division of Workers' Compensation of Florida has no jurisdiction over claims by such players. This distinguishes this provision from those at issue in Matthews and Haynes.<sup>10</sup>

The choice of forum and choice of law set forth in this sentence constitute an integral provision. But even if the choice of law were to be considered on its own, it is undisputed that the Florida's Workers' Compensation Act allows employees covered thereunder to seek benefits in other states. Certainly, there is no sound basis on which to conclude, nonetheless, that the Act somehow prohibits persons excluded from coverage thereunder from seeking benefits under the laws of other states. Nor can this contractual choice of law provision reasonably be read as an agreement that if a Player seeks benefits in a forum outside Florida he is agreeing that Florida's statute -- which does not cover him -- is to be applied.

It is noteworthy that this choice of forum and choice of law provision was first included in a Dolphins NFL Player Contract some years after the adoption of the Implementation

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<sup>10</sup> For that reason it is unnecessary to address the Players' other arguments as to why those two NFL arbitration cases should not be followed in this case.

Agreement in 1985. If the Dolphins and the Players who entered into these addenda had mutually intended that all injury-related claims were to be processed only under the provisions and procedures of the Implementation Agreement, they could have so stated. They did not.<sup>11</sup>

I conclude the choice of law provisions in the NFL Player Contracts of 30 of the Players are not, as a matter of contract, effective to preclude or prohibit those Players from filing workers' compensation claims in California and seeking benefits under otherwise applicable California law.

AWARD

The grievances are denied as set forth in the above Findings.

  
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Shyam Das, Arbitrator

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<sup>11</sup> Whether such a provision in an NFL Player Contract otherwise would be valid and enforceable need not be, and is not, addressed here.

# **EXHIBIT B**



## ARTICLE IX NON-INJURY GRIEVANCE

**Section 1. Definition:** Any dispute (hereinafter referred to as a “grievance”) arising after the execution of this Agreement and involving the interpretation of, application of, or compliance with, any provision of this Agreement, the NFL Player Contract, or any applicable provision of the NFL Constitution and Bylaws pertaining to terms and conditions of employment of NFL players, will be resolved exclusively in accordance with the procedure set forth in this Article, except wherever another method of dispute resolution is set forth elsewhere in this Agreement, and except wherever the Settlement Agreement provides that the Special Master, Impartial Arbitrator, the Federal District Court or the Accountants shall resolve a dispute.

**Section 2. Initiation:** A grievance may be initiated by a player, a Club, the Management Council, or the NFLPA. A grievance must be initiated within forty-five (45) days from the date of the occurrence or non-occurrence upon which the grievance is based, or within forty-five (45) days from the date on which the facts of the matter became known or reasonably should have been known to the party initiating the grievance, whichever is later. A player need not be under contract to a Club at the time a grievance relating to him arises or at the time such grievance is initiated or processed.

**Section 3. Filing:** Subject to the provisions of Section 2 above, a player or the NFLPA may initiate a grievance by filing a written notice by certified mail or fax with the Management Council and furnishing a copy of such notice to the Club(s) involved; a Club or the Management Council may initiate a grievance by filing written notice by certified mail or fax with the NFLPA and furnishing a copy of such notice to the player(s) involved. The notice will set forth the specifics of the alleged action or inaction giving rise to the grievance. If a grievance is filed by a player without the involvement of the NFLPA, the Management Council will promptly send copies of the grievance and the answer to the NFLPA. The party to whom a non-injury grievance has been presented will answer in writing by certified mail or fax within seven (7) days of receipt of the grievance. The answer will set forth admissions or denials as to the facts alleged in the grievance. If the answer denies the grievance, the specific grounds for denial will be set forth. The answering party will provide a copy of the answer to the player(s) or Club(s) involved and the NFLPA or the Management Council as may be applicable.

**Section 4. Ordinary and Expedited Appeal:** If a grievance is not resolved after it has been filed and answered, either the player(s) or Club(s) involved, or the NFLPA, or the Management Council may appeal such grievance by filing a written notice of appeal with the Notice Arbitrator and mailing copies thereof to the party or parties against whom such appeal is taken,

and either the NFLPA or the Management Council as may be appropriate. If the grievance involves a suspension of a player by a Club, the player or NFLPA will have the option to appeal it immediately upon filing to the Notice Arbitrator and a hearing will be held by an arbitrator designated by the Notice Arbitrator within seven (7) days of the filing of the grievance. In addition, the NFLPA and the Management Council will each have the right of immediate appeal and hearing within seven (7) days with respect to four (4) grievances of their respective choice each calendar year. The arbitrator(s) designated to hear such grievances will issue their decision(s) within five (5) days of the completion of the hearing. Prehearing briefs may be filed by either party and, if filed, will be exchanged prior to hearing.

**Section 5. Discovery:** No later than ten (10) days prior to the hearing, each party will submit to the other copies of all documents, reports and records relevant to the dispute. Failure to submit such documents, reports and records no later than ten (10) days prior to the hearing will preclude the non-complying party from submitting such documents, reports and records into evidence at the hearing, but the other party will have the opportunity to examine such documents, reports and records at the hearing and to introduce those it desires into evidence, except that relevant documents submitted to the opposing party less than ten (10) days before the hearing will be admissible provided that the proffering party and the custodian(s) of the documents made a good faith effort to obtain (or discover the existence of) said documents or that the document's relevance was not discovered until the hearing date. In the case of an expedited grievance pursuant to Section 4, such documentary evidence shall be exchanged on or before two (2) days prior to the hearing unless the arbitrator indicates otherwise.

**Section 6. Arbitration Panel:** There will be a panel of four (4) arbitrators, whose appointment must be accepted in writing by the NFLPA and the Management Council. The parties will designate the Notice Arbitrator within ten (10) days of the execution of this Agreement. In the event of a vacancy in the position of Notice Arbitrator, the senior arbitrator in terms of affiliation with this Agreement will succeed to the position of Notice Arbitrator, and the resultant vacancy on the panel will be filled according to the procedures of this Section. Either party to this Agreement may discharge a member of the arbitration panel by serving written notice upon the arbitrator and the other party to this Agreement between December 1 and 10 of each year, but at no time shall such discharges result in no arbitrators remaining on the panel. If either party discharges an arbitrator, the other party shall have two (2) business days to discharge any other arbitrator. If the parties are unable to agree on a new arbitrator within thirty (30) days of any vacancy, the Notice Arbitrator shall submit a list of ten (10) qualified and experienced arbitrators to the NFLPA and the Management Council. With-

in fourteen (14) days of the receipt of the list, the NFLPA and the Management Council shall select one arbitrator from the list by alternately striking names until only one remains, with a coin flip determining the first strike. The next vacancy occurring will be filled in similar fashion, with the party who initially struck first then striking second. The parties will alternate striking first for future vacancies occurring thereafter during the term of this Agreement. If either party fails to cooperate in the striking process, the other party may select one of the nominees on the list and the other party will be bound by such selection.

**Section 7. Hearing:** Each arbitrator will designate a minimum of twelve (12) hearing dates per year, exclusive of the period July 15 through September 10 for non-expedited cases, for use by the parties to this Agreement. Upon being appointed, each arbitrator will, after consultation with the Notice Arbitrator, provide to the NFLPA and the Management Council specified hearing dates for such ensuing period, which process will be repeated on an annual basis thereafter. The parties will notify each arbitrator thirty (30) days in advance of which dates the following month are going to be used by the parties. The designated arbitrator will set the hearing on his next reserved date in the Club city unless the parties agree otherwise. If a grievance is set for hearing and the hearing date is then postponed by a party within thirty (30) days of the hearing date, the postponement fee of the arbitrator will be borne by the postponing party unless the arbitrator determines that the postponement was for good cause. Should good cause be found, the parties will share any postponement costs equally. If the arbitrator in question cannot reschedule the hearing within thirty (30) days of the postponed date, the case may be reassigned by the Notice Arbitrator to another panel member who has a hearing date available within the thirty (30) day period. At the hearing, the parties to the grievance and the NFLPA and Management Council will have the right to present, by testimony or otherwise, and subject to Section 5, any evidence relevant to the grievance. All hearings will be transcribed.

If a witness is unable to attend the hearing, the party offering the testimony shall inform the other party of the identity and unavailability of the witness to attend the hearing. At the hearing or within fourteen (14) days thereafter, the party offering the testimony of the unavailable witness must offer the other party two possible dates within the next forty-five (45) days to take the witness' testimony. The other party shall have the opportunity to choose the date. The record should be closed sixty (60) days after the hearing date unless mutually extended notwithstanding any party's failure to present post-hearing testimony within the above-mentioned time period. If a witness is unavailable to come to the hearing, the witness' testimony may be taken by telephone conference call if the parties agree. In cases where the amount claimed is less than \$25,000, the parties may agree to hold the hearing by telephone conference call. If either party requests post-

hearing briefs, the parties shall prepare and simultaneously submit briefs except in grievances involving non-suspension Club discipline where less than \$25,000 is at issue, in which cases briefs will not be submitted. Briefs must be submitted to the arbitrator postmarked no later than sixty (60) days after receipt of the last transcript.

**Section 8. Arbitrator's Decision and Award:** The arbitrator will issue a written decision within thirty (30) days of the submission of briefs, but in no event shall he consider briefs filed by either party more than sixty (60) days after receipt of the last transcript, unless the parties agree otherwise. The decision of the arbitrator will constitute full, final and complete disposition of the grievance, and will be binding upon the player(s) and Club(s) involved and the parties to this Agreement; provided, however, that the arbitrator will not have the jurisdiction or authority: (a) to add to, subtract from, or alter in any way the provisions of this Agreement or any other applicable document; or (b) to grant any remedy other than a money award, an order of reinstatement, suspension without pay, a stay of suspension pending decision, a cease and desist order, a credit or benefit award under the Bert Bell/Pete Rozelle NFL Player Retirement Plan, or an order of compliance, with a specific term of this Agreement or any other applicable document, or an advisory opinion pursuant to Article XIII (Committees), Section 1(c). In the event the arbitrator finds liability on the part of the Club, he shall award interest beginning one year from the date of the last regular season game of the season of the grievance. The interest shall be calculated at the one-year Treasury Note rate published in *The Wall Street Journal* as of February 1 (or the next date published) of each year, and such rate shall apply to any interest awarded during each such subsequent twelve (12) month period.

**Section 9. Time Limits:** Each of the time limits set forth in this Article may be extended by mutual written agreement of the parties involved. If any grievance is not processed or resolved in accordance with the prescribed time limits within any step, unless an extension of time has been mutually agreed upon in writing, either the player, the NFLPA, the Club or the Management Council, as the case may be, after notifying the other party of its intent in writing, may proceed to the next step.

**Section 10. Representation:** In any hearing provided for in this Article, a player may be accompanied by counsel of his choice and/or a representative of the NFLPA. In any such hearing, a Club representative may be accompanied by counsel of his choice and/or a representative of the Management Council.

**Section 11. Costs:** All costs of arbitration, including the fees and expenses of the arbitrator and the transcript costs, will be borne equally between the

parties. Notwithstanding the above, if the hearing occurs in the Club city and if the arbitrator finds liability on the part of the Club, the arbitrator shall award the player reasonable expenses incurred in traveling to and from his residence to the Club city and one night's lodging.

**Section 12. Payment:** If an award is made by the arbitrator, payment will be made within thirty (30) days of the receipt of the award to the player or jointly to the player and the NFLPA provided the player has given written authorization for such joint payment. The time limit for payment may be extended by mutual consent of the parties or by a finding of good cause for the extension by the arbitrator. Where payment is unduly delayed beyond thirty (30) days, interest will be assessed against the Club from the date of the decision. Interest shall be calculated at double the one-year Treasury Note rate published in *The Wall Street Journal* as of February 1 (or next date published) of each year, and such rate shall apply to the interest awarded during each subsequent twelve (12) month period in lieu of continuation of any pre-award interest. The arbitrator shall retain jurisdiction of the case for the purpose of awarding post-hearing interest pursuant to this Section.

**Section 13. Grievance Settlement Committee:** A grievance settlement committee consisting of the Executive Director of the NFLPA and the Executive Vice President for Labor Relations of the NFL shall have the authority to resolve any grievance filed under this Article. This committee shall meet periodically to discuss and consider pending grievances. No evidence will be taken at such meetings, except parties involved in the grievance may be contacted to obtain information about their dispute. If the committee resolves any grievance by mutual agreement of the two members, such resolution will be made in writing and will constitute full, final and complete disposition of the grievance and will be binding upon the player(s) and the Club(s) involved and the parties to this Agreement. Consideration of any grievance by this committee shall not in any way delay its processing through the non-injury grievance procedure described in this Article, and no grievance may be resolved pursuant to this Section once an arbitration hearing has been convened pursuant to Section 7 hereof.

# **EXHIBIT C**

## ARTICLE LIV WORKERS' COMPENSATION

**Section 1. Benefits:** In any state where workers' compensation coverage is not compulsory or where a Club is excluded from a state's workers' compensation coverage, a Club will either voluntarily obtain coverage under the compensation laws of that state or otherwise guarantee equivalent benefits to its Players. In the event that a Player qualifies for benefits under this section, such benefits will be equivalent to those benefits paid under the compensation law of the state in which his Club is located.

**Section 2. Rejection of Coverage:** Nothing in this Article is to be interpreted as preventing a Club that has the legal right to do so from rejecting coverage under the workers' compensation law of its state. However, if a Club elects to reject coverage under the compensation law of its state, it must nevertheless guarantee benefits to its Players in the manner provided in Section 1 above. Moreover, any Club may be excluded from those laws if it elects to do so, but any such Club will be obligated to guarantee benefits to its Players in the same manner provided in Section 1 above.

**Section 3. Arbitration:** In any state where a Club (e.g., Miami Dolphins/Florida) has legally elected not to be covered by the workers' compensation laws of that state, the equivalent benefit, if any, to which a Player may be entitled under this Article will be determined under the grievance procedure of Article IX (Non-Injury Grievance).

**Section 4. Workers' Compensation Offset Provisions:** The parties agree that the following provisions shall exclusively govern any and all rights Clubs have with respect to workers' compensation credits or offsets during the remaining Capped Years of this Agreement.

(i) **"Dollar-for-Dollar" Credits or Offsets.** No Club shall be entitled to claim or receive any dollar-for-dollar credit or offset for salary, benefits, or other compensation paid or payable to a Player against any award or settlement of workers' compensation benefits, either pursuant to Paragraph 10 of the NFL Player Contract or any provision of state law.

(ii) **"Time" Credits or Offsets.** All Clubs are instead entitled only to a "time" credit or offset under Paragraph 10 of the NFL Player Contract or state law, as set forth more specifically in Subsections (A)-(F) below. This "time" credit or offset shall in all cases be expressed or granted as a reduction in the number of weeks of a Player's workers' compensation award or settlement that is attributable to the same period of weeks in which the Player is deemed entitled to salary payments or CBA benefits as described in this Section. The credit or offset shall be at the weekly rate specified under the state workers' compensation law in question. Because the period from the beginning of the regular season to the end of the League Year (25

weeks) is approximately 1.5 times longer than the seventeen (17) week period over which Players receive salary and/or Injury Protection payments, the parties agree that, in calculating the "time" credit or offset as set forth more particularly herein, the Club is entitled to a reduction of 1.5 weeks of a Player's workers' compensation award or settlement for each week during the regular season for which a Player is awarded or executes a settlement agreement for workers' compensation benefits and for the same period of weeks is paid his full Paragraph 5 salary or Injury Protection payments.

(A) In the case of salary payments pursuant to Paragraph 5 or 9 of the NFL Player Contract, the Club shall be entitled to a reduction of 1.5 weeks of a Player's workers' compensation award or settlement for each week during the regular season in which the Player is physically unable to perform his services under his contract due to an injury he suffers while performing services during that contract year, to a maximum of 25 weeks, provided that the Player receives his full salary as set forth in Paragraph 5 of his contract for the period in question. For example, if a Player receives three (3) weeks of Paragraph 5 salary subsequent to an injury that rendered him unable to perform for three (3) games (regardless of whether the payments were made on a weekly or bi-weekly basis), the Club will be entitled to a reduction of 4.5 ( $= 3 \times 1.5$ ) weeks of the Player's workers' compensation award or settlement. As another example, if a Player receives seventeen (17) weeks of Paragraph 5 salary subsequent to an injury that rendered him unable to perform all 16 games of the regular season (regardless of whether the payments were made on a weekly or bi-weekly basis), the Club will be entitled to a reduction of 25 ( $= 17 \times 1.5$ ) weeks of the Player's workers' compensation award or settlement.

(B) In the case of Injury Protection payments, a Club shall be entitled to a reduction of 1.5 weeks of a Player's workers' compensation award or settlement for each week from the beginning of regular season to the end of the League Year that the Player receives full Injury Protection payments, to a maximum of 25 weeks. For example, if a Player receives the Injury Protection payments for 17 weeks (regardless of whether the payments were made on a weekly or bi-weekly basis), the Club will be entitled to a reduction of 25 weeks of the Player's workers' compensation award or settlement. As another example, if a Player receives Injury Protection payments for three (3) weeks but then signs a contract for that season with another Club such that benefits payments cease, the Club will be entitled to a reduction of 4.5 weeks of the workers' compensation award or settlement. In the event that a Club pays a Player full Injury Protection payments prior to the first regular season game of the League Year, the Club will be entitled to a reduction of 1.5 weeks of the Player's workers' compensation award or settlement for each week during the regular season to the end of the League Year for which the Player's Injury Protection payments are made.

(C) Nothing in this Section 4 shall be interpreted to preclude a Club from receiving the "time" credit or offset set forth in this Section for both



salary payments and Injury Protection payments when both payments are made.

(D) In the event that an Injury Grievance, Injury Protection, injury guarantee, or other arbitrable claim where workers' compensation offsets or credits is at issue and within the jurisdiction of the arbitrator, is settled between the Player and the Club, or in the event that a Club and Player execute an injury-related settlement agreement, the Club shall be entitled to a reduction of 1.5 weeks of a Player's workers' compensation award or settlement for each week that the Player is deemed entitled to receive his full Paragraph 5 salary or Injury Protection payments pursuant to the settlement, to a maximum of 25 weeks. The Club and Player shall be required to specify in the written settlement agreement the number of weeks for which the Player is receiving his full Paragraph 5 salary or Injury Protection payments under the settlement so that the appropriate number of weeks of the Player's workers' compensation award or settlement can be reduced. For example, if a Player and a Club settle an Injury Grievance, Injury Protection or injury guarantee claim for a specified period of three (3) weeks, the Club will be entitled to a reduction of 4.5 (= 3 x 1.5) weeks of the Player's workers' compensation award or settlement.

(E) In the event that an Arbitrator awards Paragraph 5 salary or Injury Protection payments in an Injury Grievance, Injury Protection, injury guarantee, or other arbitrable claim where workers' compensation offsets or credits is at issue and within the jurisdiction of the arbitrator, for the same period of weeks for which a Player has already been awarded workers' compensation benefits or received a workers compensation settlement, the Club shall be entitled to a reduction of 1.5 weeks of the Player's workers' compensation award or settlement for each week the Player is deemed entitled to receive his full Paragraph 5 salary or Injury Protection payments pursuant to the Arbitrator's award. For example, if an Arbitrator awards a Player three (3) weeks of Paragraph 5 salary pursuant to an Injury Grievance award and the Player has already been awarded workers' compensation benefits or received a workers' compensation settlement for that same period, the Arbitrator shall reduce the award by an amount equal to 4.5 (= 3 x 1.5) weeks of workers' compensation benefits.

(F) Clubs are not entitled to any credit or offset under this Article against any workers' compensation benefits attributable to the period of time after the last League Year for which the Player is entitled to receive salary payments (or, in cases where the Player receives Injury Protection payments, after such period) from the Club, even if the Player's entitlement to such payments is not determined until after the League Year in question. No payment of any of the following may be used by a Club as a basis for claiming any workers' compensation credit or offset under this Article:

- (1) Signing bonus;

(2) Option bonus;

(3) Roster bonus;

(4) Incentive bonus;

(5) Performance-based pay earned prior to the date of injury (unless, for any period of time in which a Club would otherwise be entitled to a credit or offset pursuant to this Section, the Player's weekly salary would be less than the amount of weekly workers' compensation benefits payable under state law, in which case the performance-based pay could be added by the Club to the Player's Paragraph 5 salary for those weeks in which the Club would be entitled to a credit or offset under this Section);

(6) Deferred compensation (except where the deferred compensation is salary attributable to the weeks for which the Player has been awarded or has executed a settlement agreement for workers' compensation benefits as described in this Section in which case the Club is permitted a credit or offset in the same manner as if the salary was not deferred and instead was paid during the League Year in which the Player was physically unable to perform his services under his NFL Player Contract due to an injury he suffered while performing services during that contract year);

(7) Severance pay; or

(8) Any other form of compensation other than Paragraph 5 salary under the NFL Player Contract or Injury Protection payments under the CBA.

(G) Total and Permanent, Line of Duty and Degenerative Disability Benefits paid pursuant to the Bert Bell/Pete Rozelle NFL Player Retirement Plans and/or related documents are not subject to any credit or offset for workers' compensation benefits, whether or not those benefits are payable during the same period in which the disability payments are payable. Clubs are not entitled to any credit or offset under this Article for any workers' compensation benefits payable to any Player against any payments made to any Player under the Bert Bell/Pete Rozelle NFL Player Retirement Plans and/or related documents; provided, however, that the receipt of such disability payments by the Player shall not affect the Club's right to claim or

receive any offsets or credits set forth elsewhere in this Article.

(iii) **Pending cases.** The parties agree to settle those Players' workers' compensation claims and related cases that were pending or in any stage of appeal as of March 8, 2006, and thereafter in which a Player or former Player has claimed entitlement to workers' compensation benefits on account of an injury or injuries suffered while performing services under a NFL Player Contract and in which a Club is claiming any entitlement to a credit or offset greater than the credit or offset provided herein; all such settlements shall limit credits or offsets as set forth in this Article, regardless of any awards or decisions already entered in any particular case. Clubs specifically reserve the right to maintain any defenses they may have in such pending cases that are unrelated to the offset issue.

(iv) **Remedies.** If, after March 8, 2006, despite the terms of this Article and the Clubs' obligation to comply with Subsection (iii) and all other provisions of this Article, a state court or other competent authority nevertheless renders a decision or other determination with an outcome inconsistent with the terms of this Section 4, then the Player shall have a right to immediate payment from the Club for the amount of any difference between such outcome and the outcome specified in Subsections (i)-(ii) above. A Player may initiate a claim under this Section by filing a written notice by certified mail or fax with the Management Council and furnishing a copy to the Club involved. The claim shall set forth the name of the matter and jurisdiction in which the improper award was made, the amount of payment requested and the basis for the calculation. The claim must be initiated within 45 days of either the date of execution of this Agreement or the date of any adverse order (whichever is later); provided, however, that in the event the Player files an appeal of any adverse order, the time for the Player to notify the Club will begin to run from the date the appeal is decided.

(v) **Time-Offset Fund.** The NFL shall establish a fund which shall bear the cost of additional benefits or associated insurance and related costs (exclusive of professional fees, administrative overhead, penalties or similar costs) incurred by any Club as a direct result of the adoption of this Section 4. The parties shall use their best efforts to ensure that all parties involved including the Clubs and their insurance carriers will implement this Subsection (v) in such a manner as to minimize the costs and expenses associated with this fund.

(vi) **Disputes.** Any dispute concerning the operation of Section 4 and/or any payments to a Player under Subsection (iv) will be determined under the grievance procedure of Article IX (Non-Injury Grievance).

**Section 5. Preservation of Rights:** Beginning as of the Final League Year, the NFLPA and the Clubs preserve their prior positions (i.e., prior to March 8, 2006) with regard to the applicability and legality of workers' compensation offset provisions under state law, and nothing in this Article shall be-

ginning in the Final League Year prevent any Player from claiming that an offset provision is not legally binding upon him or prevent any Club from asserting that an offset provision (including, but not limited to, a state statute providing a Club with a dollar-for-dollar credit) is legally binding upon a Player.

# **EXHIBIT D**

**IMPLEMENTATION AGREEMENT REGARDING LOCAL  
PROCESSING OF MIAMI DOLPHINS WORKERS'  
COMPENSATION CLAIMS**

The NFL Players Association (NFLPA) and the NFL Management Council (NFLMC) hereby agree to the following Implementation Agreement dealing with local processing of workers' compensation claims made to the Miami Dolphins. It is the intention of the parties that this procedure provide the "equivalent benefits" referred to in Article XXXIII of the 1977 Collective Bargaining Agreement and Article XXXVI of the 1982 Collective Bargaining Agreement.

1. In order to insure the efficient and expeditious processing of pending and future claims of workers' compensation benefits by its players, the Miami Dolphins will appoint, as soon as practicable, a servicing agent who is knowledgeable about, and experienced in handling claims under, the Florida Workers Compensation Law. The Dolphins will furnish the name(s), addresses and phone numbers of the person(s) appointed to act as its servicing agent to the NFLPA and the NFLMC. The servicing agent shall be readily available to answer inquiries and process claims made by Dolphin players or their representatives. The Dolphins shall allow its servicing agent to routinely authorize medical care and pay appropriate workers' compensation benefits within reasonable limits without having to seek additional authority from the Dolphins. The Dolphins will designate a representative of their choice to act as liaison between the players and the servicing agent.

2. The workers' compensation rights and benefits to which Miami Dolphin players are entitled are the same as those set forth for other employees in the Florida Workers' Compensation Law, as amended, and as interpreted in the Florida Courts except as modified by this Agreement and the 1977 and 1982 CBAs. It is the intent of the parties to avoid litigation of workers' compensation claims by routinely resolving any issue or disputes which may arise between the servicing agent and the player through a fair and reasonable application of the Florida Workers' Compensation Law.

3. In the event a dispute arises which cannot be amicably resolved between the servicing agent and the player, the procedures set forth below will be followed to achieve a swift, final and binding resolution of the dispute. The Dolphins players as professional athletes do not have access to state workers' compensation officials or the state workers' compen-

sation agency. Although the 1982 CBA provides that the method of determining what benefits a player will be entitled to shall be the non-injury grievance procedure of that document, the parties agree that the establishment of a local arbitration system is a more desirable method of determining entitlement to benefits. Accordingly, an independent panel of arbitrators shall be established to determine equivalent benefits. It is the intent of the parties to equate this arbitration procedure to the Florida Workers' Compensation Law to the extent possible except as modified by this Agreement and the 1977 and 1982 CBAs.

4. The player will be responsible to report his reasonably ascertainable injuries to the Dolphins' trainers or doctors orally or in writing within 30 days of the occurrence of such injuries. The Dolphins in accordance with their usual practices will keep written trainers' and medical records relating to such injuries. The Dolphins shall make all medical records easily accessible to its servicing agent so any injury can be quickly and easily authenticated thereby expediting appropriate processing of a claim. Upon the filing of a claim, the servicing agent shall make the player's medical records available to the player and his representative in accordance with the Florida Workers' Compensation Law.

5. A player employed or formerly employed by the Miami Dolphins may make a written claim for workers' compensation benefits with the Dolphins or its servicing agent at any time within the statute of limitations set forth in the Florida Workers' Compensation Law. Any player or former player who previously filed a written notice or claim for workers' compensation benefits with the Dolphins, its servicing agent or the Florida Division of Workers' Compensation within the statute of limitations set forth in the Florida Workers' Compensation Law shall have the opportunity to process his claim with the Dolphins servicing agent and, if necessary, litigate his claim on the merits in accordance with the procedures of this Agreement.

6. If the Dolphins or its servicing agent fails or ceases, in the opinion of the player, to provide the appropriate or adequate medical benefits or compensation benefits, the player, his representative, or the NFLPA may file a written grievance with the servicing agent of the Dolphins, with copies provided to the Dolphins, the NFLMC and the NFLPA. The servicing agent will answer the grievance within 14 days, setting forth the basis for the denial, cessation, or decrease of the benefit.

7. If the player or former player or the NFLPA wishes to contest the denial, cessation, or decrease of a benefit by the

servicing agent or the Dolphins, he or his representative or the NFLPA must file an appeal letter within 30 days of the receipt of the answer (or within 30 days of the expiration of the 14 day period to answer if no answer is filed) to the Notice Arbitrator to be appointed under this Implementation Agreement with copies sent to the servicing agent, Miami Dolphins, the NFLMC and the NFLPA. The Notice Arbitrator will assign the case to himself or one of the other two (2) arbitrators to be appointed under this Agreement and will schedule a hearing date in Miami within 60 days of his receipt of the appeal letter. The Notice Arbitrator will consult with the parties and the other arbitrators regarding their availability, but he must schedule a hearing date within 60 days of his receipt of the appeal letter unless the parties jointly agree to a postponement. If a scheduled hearing date is canceled, any cancellation fee will be borne by the canceling party. The arbitrator to whom the case was assigned will re-schedule the case within 30 days of the postponed date. If that arbitrator cannot reschedule the hearing within 30 days, or on a date acceptable to both parties, he will notify the Notice Arbitrator who will reassign the case to another member of the panel if a member has a hearing date available within the thirty day period.

8. At the hearing, the parties to the grievance and the NFLPA and the NFLMC will have the right to present, by testimony or otherwise, any evidence relevant to the grievance. In conducting the hearing and reaching a decision the arbitrators will be bound by the Florida Workers' Compensation Law and the rules of procedure applicable to workers' compensation claims to the extent possible. The arbitrator's decision will be final and binding on the parties unless appealed within 30 days to the Notice Arbitrator of the Non-Injury Grievance panel under Article VII of the 1982 CBA. The scope of review of such appeal shall be that appropriate to appellate review of Florida administrative compensation awards. The parties shall have the opportunity to file briefs and/or make oral arguments unless waived by mutual consent.

9. With the exception of cancellation fees, the arbitrator's fees will be paid jointly by the NFLPA and the NFLMC. All other costs will be borne in accordance with the Florida Workers' Compensation Law and the rules of procedure applicable to workers' compensation claims in Florida to the extent possible. The rulings and decisions issued by the arbitrators appointed under this Agreement shall be applicable only to Florida workers' compensation claims arising under Article XXXIII of the 1977 CBA or Article XXXVI of the 1982 CBA and shall have no application to other Articles of the CBA or to other teams which may come under the provisions of Article XXXVI in the future.



10. The parties shall have 45 days from the signing of this Implementation Agreement to voluntarily select a Notice Arbitrator and two (2) other arbitrators who will serve under this Agreement. The arbitrators shall all possess expertise and at least 5 years experience in handling claims under the Florida Workers' Compensation Law, be qualified to administer oaths and reside in the Miami area. If after 45 days there are one or more vacancies on the panel, the Senior Deputy Commissioner for Miami of the Florida Department of Labor and Employment Security, Division of Workers' Compensation, will be asked to submit to the parties within ten (10) days a list of ten (10) names of persons who possess the qualifications set forth above. Within ten (10) days of the receipt of that list the parties shall meet to alternately strike one name from the list until the number of names on the list matches the number of vacancies to be filled. If at that time a Notice Arbitrator has not been agreed upon, the parties shall choose one of the three names at random and name that arbitrator as the Notice Arbitrator. Whenever vacancies occur on this panel of arbitrators the parties shall follow the same procedures in order to fill the vacancies. Arbitrators appointed to the panel may be removed by either party by giving written notice of such removal to the arbitrator and to the other party during the period beginning on June 1 through June 15 of each year.

11. The following areas of the Florida Workers' Compensation Law will not apply:

- a. criminal penalties
- b. special disability fund
- c. services provided by the Division of Workers' Compensation or by the Deputy Commissioners, except as set forth herein

Any disputes regarding the agreement of the parties to exclude certain provisions of the Florida Workers' Compensation Law from this Agreement shall be resolved through negotiation of the parties or by the arbitration procedure set forth in Article VII of the 1982 CBA.

12. As soon as practicable after the execution of this Agreement the Miami Dolphins will join the Florida workers' compensation self-insurance guarantee fund or buy separate insurance to guarantee payment of workers' compensation benefits in the event the Miami Dolphins cease to exist under the same circumstances covered by the Florida Workers' Compensation Law. The Dolphins will provide documentation of said coverage to the NFLMC at the time of its initiation and at the time of renewal of

said coverage. The receipt of said documentation shall be noticed to the NFLPA and non-confidential portions of the documentation shall be available for inspection by the NFLPA upon reasonable notice.

13. In consideration for the provision of the workers' compensation benefits provided by the 1977 and 1982 Collective Bargaining Agreements, the NFLPA on behalf of players or former players of the Dolphins grants the Dolphins the same immunities from suit by those players and their families that other employers in Florida enjoy with respect to such suits on account of coverage under the Florida Workers' Compensation Law. It is the position of the NFLMC that such immunity has been conferred by virtue of the provisions of the 1977 and 1982 Collective Bargaining Agreements which granted the players equivalent benefits.

14. The terms of this Implementation Agreement shall commence on the date it is executed by both parties and will expire three (3) years from the date of execution.

15. This Implementation Agreement is hereby agreed to, signed and put into effect by the undersigned collective bargaining representatives on this 20<sup>th</sup> day of December, 1985.



\_\_\_\_\_  
JACK DONLAN  
Executive Director  
NFL Management Council



\_\_\_\_\_  
GENE UPSHAW  
Executive Director  
NFL Players Association

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

### I. (a) PLAINTIFFS

The National Football League Players Association / Miami Dolphins

(b) County of Residence of First Listed Plaintiff Washington, D.C.  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Matthew M. Walsh, Dewey & LeBoeuf LLP  
333 S. Grand Ave., #2600, Los Angeles, CA 90071 (213) 621-6000

### DEFENDANTS

The National Football League Management Counsel / Players

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**'11CV2472L CAB**

### II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

### III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |  |                            |                            |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
|   | <b>PTF</b>                 | <b>DEF</b>                 |  | <b>PTF</b>                 | <b>DEF</b>                 |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation   | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

### IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input checked="" type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

### V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

### VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. § 1331, 29 U.S.C. § 185

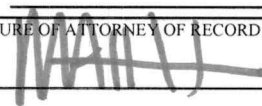
Brief description of cause:  
Petition to Confirm Arbitration Award

### VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMANDS CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

### VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 10/25/2011 SIGNATURE OF ATTORNEY OF RECORD 

### FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_