

11CV639
RHK/JTB

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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Tom Brady, Drew Brees, Vincent Jackson, Ben : Civil Action No. _____
Leber, Logan Mankins, Peyton Manning, Von :
Miller, Brian Robison, Osi Umenyiora, and :
Mike Vrabel, individually, and on behalf of all :
others similarly situated, : Declaration of William Vann
: McElroy
:

Plaintiffs, :
:

vs. :
:

NATIONAL FOOTBALL LEAGUE, et al., :
:

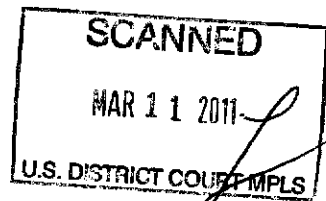
Defendants.

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William Vann McElroy, declares under penalty of perjury, as follows:

1. I am an NFL player agent at Select Sports Group. I am also a retired NFL player, having played in the league from 1982 to 1992. I have been representing players in the NFL since 1995. Over that time, I have represented over 100 players and have negotiated over 100 contracts.

2. Among the players that I currently represent are named Plaintiffs Ben Leber and Brian Robison. I am personally familiar with the contracts of both Mr. Leber and Mr. Robison, and the interactions and negotiations with their respective teams. I submit this declaration in support of Plaintiffs' Motion for a Preliminary Injunction.



Ben Leber

3. Ben Leber is a linebacker for the Minnesota Vikings. He was selected to the 2002 Pro Football Weekly and Football Digest All-Rookie Team and, for four straight seasons (2005-2008), Mr. Leber was part of the NFL's number one ranked rushing defense.

4. Mr. Leber has been a professional football player in the NFL since 2002, and I have represented him for the entirety of that time.

5. He was originally selected by the San Diego Chargers in the 2002 NFL Draft. Mr. Leber's initial contract with the San Diego Chargers expired after the 2005 NFL season on March 11, 2006, when he became an unrestricted free agent free to negotiate and sign with any NFL team.

6. On March 13, 2006, Mr. Leber signed a five-year \$20.5 million contract with the Minnesota Vikings.

7. Mr. Leber's most recent contract with the Vikings expires on March 3, 2011, at which time he will not be under contract with any NFL team. Thus, as an unrestricted free agent, he should be free to negotiate and sign with any team in the league. The ability of a player to be a free agent means more competition for his services and resulting higher compensation.

8. However, if the NFL imposes a "lockout," all NFL teams, including the Vikings, will refuse to negotiate with Mr. Leber about potential employment.

Brian Robison

9. Brian Robison is a defensive end for the Minnesota Vikings. He was named to the 2007 Pro Football Weekly and Football Digest All-Rookie Team.

10. Mr. Robison has been a professional football player in the NFL since 2007, when he was selected by the Minnesota Vikings in the 2007 NFL draft, and I have represented him for the entirety of that time.

11. Mr. Robison's four-year contract with the Vikings would have expired following the 2010 season, making him an unrestricted free agent free to negotiate with any NFL team. However, on or about March 3, 2011, Mr. Robison signed a three year \$13.5 million contract extension with the Minnesota Vikings, extending his contract through 2013. Under the contract, Mr. Robison is owed an average of \$4.5 million per season under this extension in base salary, in addition to various bonuses.

12. However, if the NFL imposes a "lockout," the Vikings will refuse to honor the terms of Mr. Robison's contract, including failing to pay contractually-mandated salary and bonuses and refusing access to team facilities.

Irreparable Harm

13. Both Mr. Leber and Mr. Robison, as well as all other NFL players, will suffer irreparable injury under an NFL "lockout." I know from personal experience, both as a player and an agent, that NFL player's careers, in general, are exceedingly short compared to other professions. I have seen many NFL players leave the NFL after only a short time, and, from my experience, I believe that the average career of an NFL player

is less than four years. One important factor contributing to the extremely abbreviated career length for NFL players is the constant risk of career-ending injury. I have seen the careers of numerous players cut short or ended by severe playing injuries, suffered both in games and practice. In addition, the wear and tear of just playing in the NFL is severe, and diminishes the physical capability of players over time. I believe these risks are typical for every NFL player.

14. Indeed, the “lockout” threatened by the NFL could deprive Mr. Leber and Mr. Robison, and all other NFL players, of an entire year, or more, of their brief playing careers, which can not be recaptured. The virtually constant need for NFL players to prove their skill and value on both the game and practice fields makes an NFL’s “lockout” especially problematic. Missing a year or more of playing in the NFL can cause the skills of NFL players to become diminished from the lack of competition, making it difficult for them to regain the full talents they exhibited prior to the absence from play. This could shorten or even end the careers of NFL players. These harms are especially severe for long-tenured veteran players like Mr. Leber.

15. In addition, for Mr. Leber and other NFL players not currently under contract, a “lockout” will also deprive them of new contracts that would be negotiated in a free market, whose precise terms will be impossible to recreate.

16. For Mr. Robison, and other NFL players currently under contract, their injuries will include their teams’ refusal to pay contractually owed amounts under their contracts and refusal to allow them to report for work at the appointed time.

17. It is my belief that Mr. Leber, Mr. Robison, and all other NFL players will not be able to fully recover from the harm they will suffer if they lose even part of an NFL season or off-season as a result of a "lockout."

Dated: March 11, 2011

Respectfully submitted,

/s William Vann McElroy
William Vann McElroy
Select Sports Group