

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

TOM BRADY, <i>et al.</i> ,)	
)	
Plaintiffs,)	No. 0:11-cv-00639-SRN-JJG
)	
v.)	
)	
NATIONAL FOOTBALL LEAGUE, <i>et al.</i> ,)	
)	
Defendants.)	
)	

Declaration of Peter Ruocco

I, PETER RUOCCO, declare as follows:

1. I am Senior Vice-President, Labor Relations of the NFL Management Council (“NFLMC”), the exclusive collective bargaining representative of the 32 NFL clubs. I have worked at the NFLMC since October 1986. I have personal knowledge of, and am competent to testify to, the following.
2. The National Football League Players Association (“NFLPA”) purported to decertify and/or to disclaim interest in representing NFL players in December 1989. The NFLPA purported to resume representation of NFL players in collective bargaining status in March 1993.
3. Between the NFLPA’s purported decertification and its purported recertification, it financed the filing of many antitrust lawsuits against

the NFL and its member Clubs. Each asserted that various League rules or policies relating to terms and conditions of player employment violated the Sherman Antitrust Act. A partial list of those cases is included in Appendix A of the White Stipulation and Settlement Agreement, a true copy of which is attached at Tab 1 to this Declaration.

4. The NFL spent tens of millions of dollars in legal fees defending these lawsuits.

5. If the Court were to issue an injunction prohibiting the NFL from exercising its labor law right to lock out the players and force the NFL to continue the presentation of its jointly-produced entertainment product, NFL football, the League and its member Clubs would undoubtedly be subject to similar antitrust lawsuits challenging the terms and conditions of player employment that would apply to the upcoming season. In turn, the NFL would undoubtedly incur similar expenditures of legal fees that it would not be able to recover, even if it prevailed on the merits of any such suits or claims.

6. If the Court were to issue an injunction prohibiting the NFL from exercising its labor law right to lock out the players, the players would undoubtedly argue that the free agency period for the 2011 NFL season should begin promptly. There are hundreds of players with contracts that will have expired when the 2011 League Year begins; we would expect the NFLPA and

players to take the position that all of those players would be free agents, immediately eligible to sign player contracts with any Club. This would create considerable uncertainty about the rights and abilities of Clubs wishing to re-sign their players.

7. In prior years, many players changed Clubs in the first days of the free agency period; such players typically sign multi-year player contracts with significant amounts of guaranteed compensation. If the Court were to issue an injunction prohibiting the NFL from exercising its labor law right to lock out the players, it is likely that many players would change Clubs, and it would be difficult, if not impossible, to unscramble the egg and return those players to the Clubs with which they would or may otherwise have been associated if the NFL were ultimately successful on the merits of this case.

8. In such circumstances, it is only logical that the more favorably situated Clubs would be able to sign more and better free agents than less well-situated teams. Based on my experience in the NFL, it is my belief that this would have a detrimental effect on competitive balance within the League, and would cause irreparable harm to the Clubs that lost free agents or the right to bid for free-agents on a level playing field.

9. By “competitive balance,” I am referring to the League’s and the fans’ interest in each Club having the opportunity to win any given game, and

in each club having a realistic opportunity to win enough games to make the playoffs and therefore to compete for the Super Bowl championship. The closer and the more uncertain the outcome of individual games -- and the closer and the more uncertain the outcome of the wildcard and divisional playoff games, the conference championships, and the Super Bowl -- the more attractive our entertainment product is in the marketplace.

10. The period from after the Super Bowl (this year, February 6) until training camp is the NFL off-season. During this period, there are no NFL games or practices (other than a three-day minicamp, during which no live contact drills are permitted, and no shoulder pads may be worn). Pre-season training camps generally open around the 1st of August.

11. Because there are no practices or other organized football activities conducted during a lockout, no player suffers a risk of career-threatening injury or physical wear and tear. Because a lockout affects all players, no individual player is placed at a disadvantage vis-à-vis another.

12. I understand that plaintiffs allege that they will suffer "irreparable harm" if they are not permitted to work out with their teammates at Club facilities during the offseason. But last season, plaintiffs Mankins and Jackson did not participate in any organized team activities during the offseason;

indeed, each refused to report to his Club until well after the regular season had begun.

13. Every year, many players have chosen to work out on their own in the offseason, rather than with their Clubs. As the article attached at Tab 2 indicates, the NFLPA has arranged for players to work out together during the lockout.

14. Since at least 2004, there have been a number of players, including drafted rookies, who have chosen to “hold out” and not participate in some or all of Club training camps.

15. Under the agreed-upon terms and conditions set forth in the CBA, last season each Club could designate one player whose contract was scheduled to expire on the last day of the League Year as a “Franchise Player.” That means that if any other Club wanted to sign that player, and if the old Club elected not to match that contract offer, the new Club would have to give the old Club two first-round draft picks as compensation.¹

¹ Under the agreed-upon terms and conditions, a Club could make one of two Franchise player designations. In lieu of the “non-exclusive” designation described above, the Club could make an “exclusive” designation, which required a higher contract offer, and which would give the old Club the exclusive right to negotiate with the player.

16. In order to designate a player as a “Franchise Player,” a Club must tender that player an offer of a one-year contract at the average of the five-highest salaries in the League for players at that position in the prior year (or 120% of that player’s regular salary for the prior season, whichever is greater). The Franchise Player tender amounts for last season, by position, were:

Playing Position	Franchise Player Tender Amt
Cornerback	\$9,566,000
Defensive End	\$12,398,000
Defensive Tackle	\$7,003,000
Linebacker	\$9,680,000
Offensive Lineman	\$10,731,000
Punter/Kicker	\$2,814,000
Quarterback	\$16,405,000
Running Back	\$8,156,000
Safety	\$6,455,000
Tight End	\$5,908,000
Wide Receiver	\$9,521,000

17. Under these agreed-upon terms and conditions of employment, if a player accepts a Franchise Player tender, the resulting contract is fully guaranteed regardless of whether the player is subsequently released due to lack of skill or a football-related injury. A designated Franchise Player may also seek to negotiate a multi-year contract with his Club, and he may do so with or without accepting the Franchise Player tender first. Historically, many players have done this, and the resulting multi-year contracts have been among the highest in the League in terms of salary. For example, plaintiff Peyton Manning was designated

as a Franchise Player in 2004, and while under designation he negotiated and signed a multi-year contract worth nearly \$100 million.

18. Prior to the expiration of the CBA, at least nine players accepted their Franchise Tenders for the 2011 season. Those one-year contracts, for the average of the top five prior year salaries for players at that playing position, will also by definition be among the highest one-year contracts in the League.

19. Three of the plaintiffs in this action were designated by their Clubs as Franchise Players for the 2011 season. If the previously agreed-upon terms and conditions of player employment from the 2010 season were carried forward to the 2011 season, the amount of the tender -- i.e., the guaranteed amount required to be offered for a one-year contract -- for Mr. Mankins, an offensive lineman, would be \$10,116,000; for Mr. Jackson, a wide receiver, \$11,424,000; and for Mr. Manning, a quarterback (who received the exclusive Franchise Tender), would be at least \$23,119,999, which equals 120% of his 2010 salary.

20. Under the agreed-upon terms and conditions for the 2010 season, each NFL Club could also designate one player whose contract had expired as a "Transition Player" by tendering that player an offer of a one-year contract at the average of the ten highest salaries for players at that position. The old Club would then have a "right of first refusal" permitting it to match any contract offer

such player received from a new Club. If, however, the old Club elects not to match, the new signing Club does not have to give the old Club any draft choice compensation.

21. The amounts of the Transition Player tenders for last season, by position, were:

Playing Position	Transition Player Tender Amt
Cornerback	\$8,056,000
Defensive End	\$10,193,000
Defensive Tackle	\$6,353,000
Linebacker	\$8,373,000
Offensive Lineman	\$9,142,000
Punter/Kicker	\$2,629,000
Quarterback	\$14,546,000
Running Back	\$7,151,000
Safety	\$6,011,000
Tight End	\$5,248,000
Wide Receiver	\$8,651,000

22. Only one Club designated a player as a Transition Player for the 2011 season.

23. The Entering Player Pool is a League-wide limit on the total amount of salary that Clubs may contract for in signing drafted rookies. Each Club has a proportional rookie allocation for the Pool that is based on that Club's number of selections in the Draft and where those selections fall within the seven rounds of the Draft. (That is, a Club with the first overall pick in the Draft will have a greater allocation than a Club with a lower selection in the first round.)

24. The purpose of the Entering Player Pool was to limit the amount of compensation paid to unproven rookie players.

25. The amount of salary that counts toward the Entering Player Pool is measured under other terms and conditions previously agreed to. These rules permit a host of player contract terms that for all intents and purposes guarantee payment to the rookie without counting against the Pool.

26. Thus, for example, rookies can -- and have -- receive(d) very large sums of money payable in year two of the contract or later, often on a guaranteed basis, without violating the Entering Player Pool limits. As a result of the flexibility in the accounting rules permitting such contracts, the Entering Player Pool has had very little, if any, impact on the amount of salary that rookies, particularly first-round draft picks, actually receive.

27. For example, the first pick in last year's draft signed a contract potentially worth over \$78 million, \$50 million of which was, for all intents and purposes, guaranteed, even though the amount actually charged to his Club's rookie allocation was only \$3.2 million.

28. Last season, rookies as whole signed contracts worth over \$1.268 *billion*, of which \$658.9 million was guaranteed for all intents and purposes by the artful drafting of contract terms.

I declare under the penalty of perjury that the foregoing is true and correct. Executed on March 2, 2011.



PETER RUOCCO