

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HONORABLE WILLIAM ALSUP

Case No: **C07-00943 WHA**

Case Name: **HERBERT ADDERLEY v. NFL PLAYERS ASSOCIATION, et al.,**

TRIAL SHEET, EXHIBIT and WITNESS LIST

JUDGE William Alsup	PLAINTIFF ATTORNEY: Ronald S. Katz, Lewis LeClaire, Peter Parsher, Jill Nayler; Chad Hummel; Ryan Hilbert, Brett Charhon; and Anthony Garza	DEFENSE ATTORNEY: Jeffrey Kessler, David Feher, Bruce Meyer, Roy Taub, David Greenspan, Jason Clark and Molly Donovan
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TRIAL DATE:
10/20/2008 -11/7/08

REPORTER(S):
Kathy Sullivan; Belle Ball

CLERK:
Dawn Toland; Lashanda Scott

PLF NO.	DEF NO	DATE TIME OFFERED	ID	REC	DESCRIPTION	BY
					OCTOBER 20, 2008 Courtroom Deputy: Lashanda Scott Court Reporter: Belle Ball	
					<u>JURY TRIAL BEGAN</u>	
		<u>7:30 am.</u>			<u>Judge cried in.</u>	
					<u>Motion in liminie matters discussed.</u>	
		<u>8:05 am.</u>			<u>Court Recess. Jurors Sworn in at 8:17 a.m.</u>	
		<u>8:19 am.</u>			<u>Jury Voir Dire Began.</u>	
		<u>9:15 am.</u>			<u>Court Recess for the jurors.</u>	
		<u>9:16 am.</u>			<u>Side Bar with counsel and juror #1.</u>	
		<u>9:20 am.</u>			<u>Juror #1 excused for break. Court discussed the juror panel with counsel.</u>	
		<u>9:22 am.</u>			<u>Court Recess.</u>	
		<u>9:35 am.</u>			<u>Voir Dire continues.</u>	
		<u>11:26 am.</u>			<u>Side Bar with counsel.</u>	
		<u>11:29 am.</u>			<u>Court Recess. Discussion with plaintiff's counsel re interaction with a juror.</u>	
		<u>11:47 am.</u>			<u>Discussion with counsel re juror interaction with plaintiff's counsel.</u>	
		<u>11:50 am.</u>			<u>Court Recess.</u>	
		<u>12:10 pm.</u>			<u>Voir Dire continues.</u>	
		<u>12:21 pm.</u>			<u>Court Recess. Peremptory Challenges discussed with counsel.</u>	

		<u>12:35 pm.</u>			<u>Voir Dire continues.</u>
		<u>12:38 pm.</u>			<u>Selected jurors sworn and admonished.</u>
		<u>1:03 pm.</u>			<u>Court adjourned until 10/21/2008 at 7:45 a.m.</u>
					OCTOBER 21, 2008 <i>c/r Kathy Sullivan</i>
		<u>7:30 am</u>			<u>(w/o jury) Court and counsel discussed preliminary matters. Parties entered into a stipulation to apply D.C. law. Court will allow portions of exhibit #1184 to come into evidence. Court directed counsel and members of the class to not communicate with the press or give interviews.</u>
		<u>8:15 am</u>			<u>Reconvene....jury present</u>
					<u>Court admonished the jury to not listen to news stories or discuss the case.</u>
		<u>8:30 am</u>			<u>Plaintiffs' Opening Statement</u>
		<u>9:17 am</u>			<u>Recess</u>
					<u>(w/o jury) Court told plaintiffs' counsel that he was out of line making reference to Mr. Kessler in his opening statement</u>
		<u>9:37 am</u>			<u>Reconvene...jury present</u>
					<u>Court addressed the jury about Mr. Persher giving the impression that Mr Kessler drafted the GLA and presented it to the players</u>
		<u>8:38 am</u>			<u>Defendants' Opening Statement</u>
		<u>10:25 am</u>			<u>Plaintiffs' objection to the use of the word "we" in defendants' opening statement</u>
		<u>10:28 am</u>			<u>Witness excluded from the courtroom</u>
					<u>Plaintiffs' witness Clifton McNeil sworn-in.</u>
<u>1223</u>			<u>x</u>	<u>x</u>	<u>Retire Player Group Licensing Authorization Form</u>
<u>1321</u>			<u>x</u>	<u>x</u>	<u>Player Cards</u>
		<u>11:13 am</u>			<u>Recess</u>
					<u>(w/o jury) Court set a ground rule that counsel can speak to their own witnesses during direct, but not once the witness is on what is effectively cross examination</u>
		<u>11:20 am</u>			<u>Recess</u>

		<u>11:38 am</u>			<u>(w/o jury) Plaintiffs raised issue concerning communicating with the witnesses. Court continued same ruling, no communicating during cross exam. Plaintiffs have a witness scheduling problem that counsel will resolve. Defendants raised concern of issue of scrambling of the Madden game and asked for an instruction. Court's question: do counsel agree that class members never received money from GLA? Plts - yes, defts - no.</u>
		<u>11:45 am</u>			<u>Reconvene...jury present</u>
<u>1245</u>			<u>x</u>	<u>x</u>	<u>2003 Madden game</u>
<u>1245</u> <u>-1</u>			<u>x</u>	<u>x</u>	<u>Photo of 'Team Select'</u>
<u>1263</u>			<u>x</u>	<u>x</u>	<u>2007 Madden game</u>
<u>1302</u>			<u>x</u>	<u>x</u>	<u>Slides from Madden game</u>
<u>1245</u> <u>-2</u>			<u>x</u>	<u>x</u>	<u>Photo of football field w/score board</u>
<u>1263</u> <u>-1</u>			<u>x</u>	<u>x</u>	<u>Photo of 'Team Select'</u>
<u>1263</u> <u>-2</u>			<u>x</u>	<u>x</u>	<u>Photo of football field w/score board</u>
		<u>12:10 pm</u>			<u>Court gave an instruction re group licensing agreement (ad hoc agreement) and the fiduciary duty claim. Also, the plaintiffs do not contend that the scrambling by EA is a violation and is not alleged as a violation</u>
		<u>12:15 pm</u>			<u>Defendants' Cross Examination</u>
					<u>Deposition read</u>
	<u>1223</u>		<u>x</u>	<u>x</u>	<u>Licensing Authorization Form</u>
		<u>12:55 pm</u>			<u>Redirect Exam</u>
		<u>12:59 pm</u>			<u>Recross Exam</u>
		<u>1:00 pm</u>			<u>Recess until 10/22/08 at 7:30 am</u>
					<u>OCTOBER 22, 2008</u> <i>c/r Kathy Sullivan</i>
		<u>7:35 am</u>			<u>(w/o jury) Court and counsel discussed the designations of Warren Friss. Plaintiff is withdrawing the witness. Third-Party EA's Motion to Seal Pricing Information in Ex. 80 is Denied.</u>
		<u>8:50 am</u>			<u>Reconvene...jury present</u>
					<u>Plaintiffs' witness Douglas Allen sworn-in</u>
<u>125</u>			<u>x</u>	<u>x</u>	<u>Agreement between NFL Players Assoc and NFL Players Inc</u>

<u>132</u>			<u>x</u>	<u>x</u>	<u>NFL Players Association Constitution</u>
<u>5</u>			<u>x</u>	<u>x</u>	<u>NFL Players.com Website</u>
<u>23</u>			<u>x</u>	<u>x</u>	<u>Letter from D. Allen to NFLPA Member</u>
<u>12</u>			<u>x</u>	<u>x</u>	<u>Memo from D. Allen to NFLPA Contract Advisors</u>
<u>110</u>			<u>x</u>	<u>x</u>	<u>NFL Players Assoc Retired Player Group Licensing Form</u>
		<u>10:25 am</u>			<u>Recess</u>
					<u>(w/o jury) Court and counsel addressed an issue</u>
		<u>10:30 am</u>			<u>Recess</u>
		<u>10:50 am</u>			<u>(w/o jury) Plaintiffs object to defendants speaking objections. Defendants 403 objection is sustained re plaintiffs examination on percentage of commission fees (witness excused during argument).</u>
		<u>11:02 am</u>			<u>Reconvene...jury present</u>
					<u>Continued direct</u>
<u>110</u>			<u>x</u>	<u>x</u>	<u>NFL Players Assoc Retired Player Group Licensing Form</u>
<u>125</u>			<u>x</u>	<u>x</u>	<u>Agreement between NFL Players Assoc and NFL Players Inc</u>
<u>28</u>			<u>x</u>	<u>x</u>	<u>License Agreement between EA and NFL Players Inc</u>
<u>2046</u>			<u>x</u>	<u>x</u>	<u>6/2004 Touchback magazine</u>
		<u>12:22 pm</u>			<u>Court admonished the jury before the long weekend</u>
		<u>12:23 pm</u>			<u>Recess until 10/27/08 at 7:30am</u>
					<u>(w/o jury) Court will allow the witness to socialize with counsel over the weekend, with the caveat that no one talk about the case.</u>
		<u>12:25 pm</u>			<u>Recess until 10/27/08 at 7:30am</u>
					OCTOBER 27, 2008 <i>c/r Kathy Sullivan</i>
		<u>7:30 am</u>			<u>(w/o jury) Court and counsel discussed several issues: EA's motion to seal portion of ex. 80 is at the Ninth Circuit. Plaintiffs want the jury to see the unredacted exhibit and the public to only see a redacted version. Plaintiffs object to defendants using exhibits 2258-2264, because they were not produced on a document request. Motion is denied, the exhibits can be received. Plaintiffs' objection to exhibit 2056 is denied.</u>
		<u>8:15 am</u>			<u>Reconvene....jury present</u>
					<u>Continued Direct of Douglas Allen</u>
<u>125</u>			<u>x</u>	<u>10/22</u>	<u>Agreement between NFL Players and NFL Players Inc</u>

<u>91</u>		<u>x</u>	<u>x</u>	<u>Amendment to NFLPA Players Inc Licensing Agreement</u>
<u>28</u>		<u>x</u>	<u>x</u>	<u>License Agreement between EA and NFL Players</u>
<u>506</u>		<u>x</u>		<u>NFL Players Assoc Group Licensing Assignment</u>
<u>54</u>		<u>x</u>	<u>x</u>	<u>Email from Corinne Beavers to Doug Allen dated 5/16/05</u>
<u>506</u>		<u>x</u>	<u>x</u>	<u>NFL Players Assoc Group Licensing Assignment</u>
<u>110</u>		<u>x</u>	<u>10/22</u>	<u>NFL Players Assoc Retired Player Group Licensing</u>
<u>1320</u>		<u>x</u>	<u>x</u>	<u>Letter from LaShun Lawson to Jeremy Strauser</u>
	<u>9:07 am</u>			<u>Recess</u>
	<u>9:28 am</u>			<u>(w/o jury) Court and counsel discussed the use of attachments A & B to exhibit 1320. Parties do not agree on what the attachments are (A is a list and B is an addendum). Court will allow the exhibit list to be amended to include the attachments. Plaintiffs will not refer to A, but will use B.</u>
	<u>9:35 am</u>			<u>Reconvene...jury present</u>
<u>24</u>		<u>x</u>	<u>x</u>	<u>Addendum to License Agreement</u>
	<u>9:43 am</u>			<u>Cross Examination</u>
<u>2047</u>		<u>x</u>	<u>x</u>	<u>Attachment A to EA License Agreement Active Player GLA</u>
<u>1281</u>		<u>x</u>	<u>x</u>	<u>Appendix C NFL Player Contract</u>
<u>110</u>		<u>x</u>	<u>10/22</u>	<u>NFL Players Assoc Retired Player Group Licensing</u>
<u>1164</u> <u>-1</u>		<u>x</u>	<u>x</u>	<u>Retired Players GLA</u>
<u>93</u>		<u>x</u>	<u>x</u>	<u>Letter from D. Cooper to D. Allen</u>
<u>95</u>		<u>x</u>	<u>x</u>	<u>Agreement between the NFL Assoc and NFL Inc</u>
<u>2046</u>		<u>x</u>	<u>10/22</u>	<u>June 2004 Touchback</u>
<u>91</u>		<u>x</u>	<u>x</u>	<u>Amendment to NFLPA Players Inc Licensing Agreement</u>
	<u>11:17 am</u>			<u>Recess</u>
	<u>11:37 am</u>			<u>Reconvene...jury present</u>
				<u>Court per counsels request advised the jury that Mr. Allen is not a member of the class.</u>
	<u>11:38 am</u>			<u>Continued Cross Examination</u>
<u>2247</u>		<u>x</u>	<u>x</u>	<u>Minutes of NFLPA Board of Player Directors' Meeting</u>
<u>1307</u> <u>1310</u>		<u>x</u>	<u>x</u>	<u>Equal Share Licensing Royalty</u>
<u>23</u>			<u>10/22</u>	<u>Letter from D. Allen to NFLPA Member</u>
<u>2262</u>		<u>x</u>	<u>x</u>	<u>Street & Smith's Sports Business Journal</u>
<u>2259</u>		<u>x</u>	<u>x</u>	<u>Players Inc Brochure</u>

	<u>2307</u>		<u>x</u>	<u>x</u>	<u>October 2006 Players Inc Monthly Report</u>
	<u>2291</u>		<u>x</u>	<u>x</u>	<u>March 2004 Players Inc Monthly Report</u>
	<u>2395</u>		<u>x</u>	<u>x</u>	<u>Raider Data Base Print Out</u>
	<u>2056</u>		<u>x</u>		<u>Compilation of Raider Data Base. <i>Court will not let in evidence just on counsels word that this is a compilation</i></u>
	<u>29</u>		<u>x</u>	<u>x</u>	<u>License Agreement between EA Inc, EA CV and NFL Players</u>
	<u>28</u>		<u>x</u>	<u>10/22</u>	<u>License Agreement between EA Inc, EA CV and NFL Players</u>
	<u>2094</u>		<u>x</u>	<u>x</u>	<u>EA Joe Greene Ad Hoc</u>
	<u>2089</u>		<u>x</u>	<u>x</u>	<u>Upper Deck Adderley Ad Hoc</u>
	<u>2092</u>		<u>x</u>	<u>x</u>	<u>Upper Deck Vernand Morency Ad Hoc</u>
	<u>36</u>		<u>x</u>	<u>x</u>	<u>License Agreement Topps Co and NFL Players</u>
	<u>394</u>		<u>x</u>	<u>x</u>	<u>License Agreement Topps Co and NFL Players</u>
		<u>1:00 pm</u>			<u>Recess until 10/28/08</u>
					<u>(w/o jury) Plaintiffs would like to call witness Mrs Patricia Allen tomorrow, but might run out of time. Defendants agree to bring her back next week if she does make it on Wednesday.</u>
		<u>1:10 pm</u>			<u>Recess until 10/28/08 at 7:30am</u>
					<u>OCTOBER 28, 2008</u> <i>c/r Kathy Sullivan</i>
		<u>7:35 am</u>			<u>(w/o jury) Court and counsel discussed preliminary matters. Counsel will make reduced copies of the time line chart to give to the jury.</u>
		<u>7:45 am</u>			<u>Reconvene...jury present</u>
					<u>Court addressed the jury about time line chart and the witness schedule</u>
		<u>7:47 am</u>			<u>Continued Cross Exam of Douglas Allen</u>
	<u>1056</u>	<u>withdraw</u>			<u>Proposal for Players Inc Extension</u>
	<u>36</u>		<u>x</u>	<u>10/27</u>	<u>License Agreement Topps Co and NFL Players</u>
			<u>x</u>		
	<u>394</u>		<u>x</u>	<u>10/27</u>	<u>License Agreement Topps Co and NFL Players</u>
	<u>2125</u>		<u>x</u>	<u>x</u>	<u>Topps Roger Craig Ad Hoc</u>
	<u>1100</u>		<u>x</u>	<u>x</u>	<u>License Agreement between RC2 Brands and NFL Players</u>
	<u>1109</u>		<u>x</u>	<u>x</u>	<u>License Agreement between STATS and NFL Players</u>
	<u>99</u>		<u>x</u>	<u>x</u>	<u>Letter from R. Goodell to E. Upshaw re Sponsorship</u>
	<u>12</u>		<u>x</u>	<u>10/22</u>	<u>Memo from D. Allen and D. Ridley to NFLPA</u>

	<u>2062</u>		<u>x</u>	<u>x</u>	<u>EA License Agreement</u>
	<u>24</u>		<u>x</u>	<u>10/27</u>	<u>Addendum</u>
	<u>1320</u>		<u>x</u>	<u>10/27</u>	<u>Letter from LaShun Lawson to Jeremy Strauser</u>
		<u>8:41 am</u>			<u>Redirect Examination</u>
<u>53</u>			<u>x</u>	<u>x</u>	<u>Email from C. Beavers to D. Allen, A. Collins, C. Walker</u>
<u>95</u>			<u>x</u>	<u>10/27</u>	<u>Agreement between the NFL Assoc and NFL Inc</u>
		<u>9:20 am</u>			<u>Recess</u>
		<u>9:38 am</u>			<u>Reconvene...jury present</u>
					<u>Continued Redirect</u>
<u>2262</u>			<u>x</u>	<u>10/27</u>	<u>Street & Smith's Sports Business Journal</u>
<u>2259</u>			<u>x</u>	<u>10/27</u>	<u>Players Inc Brochure</u>
		<u>9:40 am</u>			<u>Recross Examination</u>
		<u>9:43 am</u>			<u>Defendants confirmed that an exhibit was admitted under the wrong number. Court received exhibit #2056 and exhibit #1056 is withdrawn.</u>
	<u>2056</u>		<u>x</u>	<u>x</u>	<u>Federal Rule of Evidence 1006 Compilation</u>
		<u>9:44 am</u>			<u>Witness Excused</u>
					<u>Plaintiffs' witness Bruce Laird sworn-in</u>
<u>1224</u>			<u>x</u>	<u>x</u>	<u>NFL Players Assoc Retired Player Group Licensing Form</u>
<u>1225</u>			<u>x</u>	<u>x</u>	<u>NFL Players Assoc Retired Player Group Licensing Form</u>
		<u>10:28 am</u>			<u>Plaintiffs read a stipulation to the jury</u>
<u>2370</u>			<u>x</u>		<u>NFLPA Constitution</u>
<u>2392</u>			<u>x</u>	<u>x</u>	<u>Topps Trading Cards</u>
<u>1301</u>			<u>x</u>	<u>x</u>	<u>Screen Shots of "scrambled" Bruce Laird from Madden Game</u>
<u>1245</u> <u>-3</u>			<u>x</u>		<u>EA Sports Madden 2003 - Screen Shot</u>
<u>1245</u> <u>-4</u>			<u>x</u>	<u>x</u>	<u>EA Sports Madden 2003 - Screen Shot</u>
					<u>Court will hear plaintiffs 608 at the next recess</u>
		<u>10:45 am</u>			<u>Cross Examination</u>
		<u>11:15 am</u>			<u>Recess</u>
					<u>(w/o jury) Court and counsel addressed an issue</u>
		<u>11:25 am</u>			<u>Recess</u>

		<u>11:40 am</u>			<u>(w/o jury) Defendants confirmed Patricia Allen is here and is ready to be called as a witness today. Plaintiffs would rather call her next Monday so she is not interrupted.</u>
		<u>11:44 am</u>			<u>Reconvene..jury present</u>
					<u>Continued Cross Examination</u>
	<u>2362</u>		<u>x</u>	<u>x</u>	<u>Email from Laird to Allen</u>
	<u>1225</u>		<u>x</u>	<u>x</u>	<u>NFL Players Assoc Retired Player Group</u>
		<u>12:06 pm</u>			<u>Redirect Examination</u>
<u>2362</u>			<u>x</u>	<u>x</u>	<u>Email from Laird to Allen</u>
		<u>12:15 pm</u>			<u>Recross Exam</u>
	<u>2362</u>		<u>x</u>	<u>x</u>	<u>Email from Laird to Allen</u>
		<u>12:16 pm</u>			<u>Witness Excused</u>
					<u>Plaintiffs' witness Walter Beach sworn-in.</u>
<u>640</u>			<u>x</u>	<u>x</u>	<u>NFL Players Assoc Retired Player Group Licensing</u>
<u>639</u>			<u>x</u>	<u>x</u>	<u>NFL Players Assoc Retired Player Group Licensing</u>
<u>1245</u>			<u>x</u>	<u>10/21</u>	<u>EA Sports Madden 2003</u>
<u>1245</u> <u>-1</u>			<u>x</u>	<u>10/21</u>	<u>Screen Shot 'Team Select'</u>
<u>1245</u> <u>-7</u>			<u>x</u>		<u>Screen Shot 'Depth Chart'</u>
<u>644</u>			<u>x</u>	<u>x</u>	<u>Walter Beach Trading Card</u>
<u>1245</u> <u>-8</u>			<u>x</u>		<u>Screen Shot 'Football Field w/score board'</u>
<u>1245</u> <u>-9</u>			<u>x</u>		<u>Screen Shot 'Football field'</u>
<u>1263</u>				<u>10/21</u>	<u>EA Sports Madden 2007</u>
<u>1263</u> <u>-1</u>				<u>10/21</u>	<u>Screen Shot 'Team Select'</u>
<u>1263</u> <u>-7</u>			<u>x</u>		<u>Screen Shot 'Player Managment'</u>
		<u>1:00 pm</u>			<u>Recess until 10/29/08 at 7:30am</u>
					OCTOBER 29, 2008
					<i>c/r Kathy Sullivan</i>

		<u>7:35 am</u>			<u>(w/o jury) Court and counsel discussed testimony re exhibit #2046 Touchback. Court will allow two lines in the Touchback to be read to the jury. Counsel made smaller versions of the time line chart to give to the jury (distributed) Plaintiffs moved in exhibits #1245-7, 1245-8, 1245-9 and 1263-7. Plaintiffs request to admit exhibit #2370 (objected to) Court will allow briefing on the exhibit re Constitution. Court wants copy of the statements made by Mr. Allen during his testimony re 'EA not being interested.' Plaintiffs gave the Court a copy of the Ninth Circuit ruling re ex 80. The courtroom will be sealed when ex 80 is shown.</u>
<u>1245-7</u>			<u>x</u>	<u>x</u>	<u>Screen Shot 'Depth Chart'</u>
<u>1245-8</u>			<u>x</u>	<u>x</u>	<u>Screen Shot 'Football Field w/score board'</u>
<u>1245-9</u>			<u>x</u>	<u>x</u>	<u>Screen Shot 'Football field'</u>
<u>1263-7</u>			<u>x</u>	<u>x</u>	<u>Screen Shot 'Player Management'</u>
<u>2370</u>		<u>objection</u>	<u>x</u>		<u>Defendants object to this exhibit. Parties can brief issue</u>
		<u>8:10 am</u>			<u>Reconvene...jury present</u>
					<u>Cross Examination of Walter Beach</u>
	<u>640</u>			<u>10/28</u>	<u>NFL Players Assoc Retired Player Group Licensing</u>
	<u>639</u>			<u>10/28</u>	<u>NFL Players Assoc Retired Player Group Licensing</u>
	<u>2046</u>			<u>10/22</u>	<u>June 2004 Touchback</u>
		<u>9:00 am</u>			<u>Witness Excused</u>
					<u>Plaintiffs' witness Joel Linzner sworn-in</u>
<u>1239</u>			<u>x</u>	<u>x</u>	<u>Summary of Vintage Teams Used in Madden Video Game</u>
		<u>9:26 am</u>			<u>Recess</u>
					<u>(w/o jury) Plaintiffs can call Mr. Rhee if they want even after the stipulation</u>
		<u>9:30 am</u>			<u>Recess</u>
		<u>9:50 am</u>			<u>Reconvene...jury present</u>
					<u>Continued Direct</u>
<u>24</u>			<u>x</u>	<u>10/27</u>	<u>Addendum</u>
<u>65</u>			<u>x</u>	<u>x</u>	<u>License Agreement between EA Inc, EA CV and NFLPI</u>
<u>67</u>			<u>x</u>	<u>x</u>	<u>License Agreement between EA Inc, EA CV and NFLPI</u>
<u>80</u>		<u>Redact subject to sealing</u>	<u>x</u>	<u>x</u>	<u>License Agreement between EA Inc, EA CV and NFLPI</u>

<u>1246</u>		<u>x</u>	<u>x</u>	<u>EA Sports Madden 2004</u>
<u>1257</u>		<u>x</u>	<u>x</u>	<u>EA Sports Madden 2006</u>
<u>110</u>		<u>x</u>	<u>10/22</u>	<u>NFL Players Assoc Retired Player Group Licensing Form</u>
<u>1320</u>		<u>x</u>	<u>10/27</u>	<u>Letter for LaShun Lawson to J. Strauser</u>
<u>1184</u>	<u>Redact</u>	<u>x</u>	<u>x</u>	<u>Email from J. Strauser to J. Luhr</u>
	<u>10:50 am</u>			<u>Recess</u>
				<u>(w/o jury) Court and counsel discussed the Hall of Fame issue. Court will allow plaintiffs to ask line of questions re Hall of Fame.</u>
	<u>10:56 am</u>			<u>Recess</u>
	<u>11:15 am</u>			<u>(w/o jury) Court wants defendants to file a response to plaintiffs letter dated 10/29/08 by 5pm today. Defendants just received notice of ex 1164-2. Plaintiffs are not using it today.</u>
	<u>11:17 am</u>			<u>Reconvene...jury present</u>
				<u>Continued Direct</u>
<u>1268</u>		<u>x</u>	<u>x</u>	<u>EA Sports Madden 2007</u>
<u>1240</u>		<u>x</u>	<u>x</u>	<u>Summary of Retired Players used in EA Sports Madden Video</u>
	<u>11:21 am</u>			<u>Cross Examination</u>
<u>26</u>		<u>x</u>	<u>x</u>	<u>License Agreement between ea and NFL Players Inc</u>
<u>69</u>		<u>x</u>	<u>x</u>	<u>Letter from J. Linzner to C. Walker</u>
<u>28</u>		<u>x</u>	<u>10/22</u>	<u>License Agreement between EA Inc , EA CV and NFL</u>
<u>79</u>		<u>x</u>	<u>x</u>	<u>License Agreement between EA Inc and NFL Players Inc</u>
	<u>12:04 pm</u>			<u>Redirect Examination</u>
	<u>12:22 pm</u>			<u>Recross Examination</u>
	<u>12:26 pm</u>			<u>Witness Excused</u>
				<u>Plaintiffs witness Peter Rhee sworn-in</u>
<u>1239</u>		<u>x</u>	<u>x</u>	<u>Summary of Vintage Teams Used in Madden Video</u>
<u>1240</u>		<u>x</u>	<u>x</u>	<u>Summary of Retired Players used in EA Sports Madden Video</u>
	<u>12:34 pm</u>			<u>Cross Examination</u>
	<u>12:39 pm</u>			<u>Witness Excused</u>
				<u>Court addressed the jury regarding how a deposition is taken</u>
	<u>12:41 pm</u>			<u>Plaintiffs' witness Glenn Eyrich by deposition taken on 2/12/08 by Ronald Katz. Deposition transcript read by Brett Charhon and Anthony Garza</u>
<u>85</u>		<u>x</u>	<u>x</u>	<u>Financial Statements NFL Players Association</u>

		<u>1:00 pm</u>			<u>Recess until 10/30/08 at 7:30am</u>
					<u>(w/o jury) Defendants request the Court redact the comments made about 'GLA language.' Court made comment that jury decides the case</u>
		<u>1:01 pm</u>			<u>Recess</u>
					OCTOBER 30, 2008 <i>c/r Kathy Sullivan</i>
		<u>7:30 am</u>			<u>(w/o jury) Court and counsel discussed issue regarding the Hall of Fame licensing to EA. Court reviewed the string of emails in ex. #521 and 522. Court is giving counsel latitude to ask questions about Mr. Adderley receiving money under the Hall of Fame Agreement.</u>
		<u>8:30 am</u>			<u>Recess</u>
		<u>8:39 am</u>			<u>Reconvene...jury present</u>
					<u>Court gave each side 30 seconds to update the jury about the deposition read-in.</u>
		<u>8:41 am</u>			<u>Continued reading in the deposition of Glenn Eyrich</u>
<u>102</u>			<u>x</u>	<u>x</u>	<u>Gross Licensing Revenues 2003</u>
<u>103</u>			<u>x</u>	<u>x</u>	<u>Gross Licensing Revenues 2004</u>
<u>104</u>			<u>x</u>	<u>x</u>	<u>Gross Licensing Revenues 2005</u>
<u>105</u>			<u>x</u>	<u>x</u>	<u>Gross Licensing Revenues 2006</u>
<u>19</u>		<u>Redact</u>	<u>x</u>	<u>x</u>	<u>NFL Players Assoc Retired Player Group Licensing</u>
<u>96</u>			<u>x</u>	<u>x</u>	<u>Equal Share Licensing Royalty</u>
<u>97</u>			<u>x</u>	<u>x</u>	<u>Financial Statement NFL Players</u>
		<u>9:11 am</u>			<u>Defendants witness Steven Berg sworn-in</u>
	<u>1109</u>		<u>x</u>	<u>10/28</u>	<u>License Agreement between STATS and NFL Players Inc</u>
		<u>9:27 am</u>			<u>Cross Examination</u>
<u>1109</u>			<u>x</u>	<u>10/28</u>	<u>License Agreement between STATS and NFL Players Inc</u>
<u>2000</u>			<u>x</u>	<u>x</u>	<u>STATS License Agreement</u>
		<u>9:57 am</u>			<u>Redirect</u>
	<u>1109</u>		<u>x</u>	<u>10/28</u>	<u>License Agreement between STATS and NFL Players Inc</u>
		<u>10:02 am</u>			<u>Witness Excused</u>
		<u>10:03 am</u>			<u>Recess</u>
					<u>(w/o jury) Court advised counsel of the proper way to impeach a witness.</u>

		<u>10:05 am</u>			<u>Recess</u>
		<u>10:25 am</u>			<u>Reconvene...jury present</u>
					<u>Plaintiffs' witness Herbert Adderley sworn-in</u>
<u>110</u>			<u>x</u>	<u>10/22</u>	<u>NFL Players Assoc Retired Player Group Licensing Form</u>
<u>19</u>			<u>x</u>	<u>x</u>	<u>NFL Players Assoc Retired Player Group Licensing</u>
<u>64</u>	<u>Redact</u>		<u>x</u>	<u>x</u>	<u>NFL Players Assoc 2004-2006 (1st ten and last ten pages only)</u>
<u>2046</u>			<u>x</u>	<u>10/22</u>	<u>June 2004 Touchback</u>
		<u>11:18 am</u>			<u>Court addressed the jury</u>
		<u>11:19 am</u>			<u>Cross Examination</u>
		<u>11:32 am</u>			<u>Recess</u>
					<u>(w/o jury) Court and counsel argued issue re Reebok and will allow defendants to call witnesses</u>
		<u>11:37 am</u>			<u>Recess</u>
		<u>11:51 am</u>			<u>Reconvene...jury present</u>
					<u>Continued Cross Examination</u>
<u>2056</u>			<u>x</u>	<u>10/28</u>	<u>Federal Rule of Evidence 1006 Compilation</u>
<u>2336</u>			<u>x</u>	<u>x</u>	<u>Adderly Ad Hoc with Upper Deck</u>
<u>2087</u>			<u>x</u>	<u>x</u>	<u>Adderly Ad Hoc with Upper Deck</u>
<u>2089</u>			<u>x</u>	<u>10/27</u>	<u>Adderly Ad Hoc with Upper Deck</u>
		<u>12:38 pm</u>			<u>Redirect Exam</u>
<u>1326</u>			<u>x</u>	<u>x</u>	<u>Reebok Jersey</u>
		<u>12:49 pm</u>			<u>Recross Exam</u>
		<u>12:52 pm</u>			<u>Witness Excused</u>
		<u>12:53 pm</u>			<u>Recess until 10/31/08 at 7:30am</u>
					<u>(w/o jury) Court and counsel discussed with witness schedule</u>
		<u>1:00 pm</u>			<u>Recess until 10/31/08 at 7:30am</u>
					OCTOBER 31, 2008 <i>c/r Kathy Sullivan</i>
		<u>7:30 am</u>			<u>(w/o jury) Court and counsel discussed some issues</u>
		<u>7:40 am</u>			<u>Recess</u>
		<u>7:48 am</u>			<u>Reconvene...jury present</u>
					<u>Plaintiffs' witness Richard Berthelsen sworn-in</u>

			<u>x</u>		
<u>125</u>			<u>x</u>	<u>10/22</u>	<u>Agreement between NFL Players Assoc and NFL Players Inc</u>
<u>93</u>			<u>x</u>	<u>10/27</u>	<u>Letter from D. Cooper to D. Allen</u>
<u>95</u>			<u>x</u>	<u>10/27</u>	<u>Agreement between the NFL Players Assoc 7 NFL Players Inc</u>
<u>91</u>			<u>x</u>	<u>10/27</u>	<u>Amendment to 3/1/2000 NFLPA</u>
<u>1130</u>			<u>x</u>		<u>Plaintiff agreed to use the complete copy #85 - admitted 10/29</u>
<u>110</u>			<u>x</u>	<u>10/22</u>	<u>NFL Players Assoc Retired Player Group Licensing</u>
<u>28</u>			<u>x</u>	<u>10/22</u>	<u>License Agreement</u>
		<u>8:34 am</u>			<u>Cross Examination</u>
		<u>8:41 am</u>			<u>Witness Excused</u>
		<u>8:42 am</u>			<u>Plaintiffs' witness Joe Nahra sworn-in</u>
<u>1148</u>			<u>x</u>	<u>x</u>	<u>License Agreement between Fantasy Sports and NFL Players</u>
<u>56</u>			<u>x</u>	<u>x</u>	<u>License Agreement among EA, EA CV, National Football Museum, and NFL Players Inc</u>
<u>1034</u>			<u>x</u>	<u>x</u>	<u>Email from C. Walker to P. Cairns</u>
<u>521</u>			<u>x</u>	<u>x</u>	<u>Email to A. Feffer from J. Nahra</u>
<u>522</u>			<u>x</u>	<u>x</u>	<u>Email to P. Cairns from A. Feffer</u>
		<u>9:20 am</u>			<u>Recess</u>
		<u>9:35 am</u>			<u>(w/o jury) Counsel provided the Court a 4 page list of exhibits they stipulate to admitting. All of the exhibits are Received.</u>
<u>see list</u>			<u>x</u>	<u>x</u>	<u>Stipulated list of exhibits received into evidence</u>
		<u>9:38 am</u>			<u>Reconvene...jury present</u>
					<u>Cross Examination</u>
		<u>9:41 am</u>			<u>Joint Stipulated Fact #13 read to the jury by defendants</u>
<u>56</u>			<u>x</u>	<u>x</u>	<u>License Agreement among EA, EA CV, National Football Museum, and NFL Players Inc</u>
<u>2320</u>	<u>objection</u>		<u>x</u>		<u>Letter from Bankert to Hunt (objection. no foundation)</u>
<u>1148</u>			<u>x</u>	<u>x</u>	<u>License Agreement between Fantasy Sports and NFL Players</u>
		<u>10:02 am</u>			<u>Redirect</u>
		<u>10:09 am</u>			<u>Side Bar</u>
		<u>10:11 am</u>			<u>Court addressed the jury re question by Mr. Kessler re Upshaw in Hall of Fame</u>
		<u>10:13 am</u>			<u>Witness Excused, subject to recall</u>
					<u>Plaintiffs' witness Daniel Rascher sworn-in</u>

<u>1208</u> <u>-3</u>		<u>Redact</u>	<u>x</u>	<u>x</u>	<u>Appendix A to Expert Report (page 3 only)</u>
		<u>10:43 am</u>			<u>Cross Examination</u>
	<u>1208</u> <u>-1</u>	<u>Redact</u>	<u>x</u>	<u>x</u>	<u>Appendix A to Expert Report</u>
		<u>11:21 am</u>			<u>Recess</u>
					<u>(w/o jury) Court wants to know if findings are needed on the . Plaintiffs offered instruction on IP rights re scrambling</u>
		<u>11:23 am</u>			<u>Recess</u>
		<u>11:40 am</u>			<u>Reconvene...jury present</u>
	<u>1275</u> <u>-3</u>		<u>x</u>	<u>x</u>	<u>Appendix B to expert Reply report of Racher</u>
		<u>12:09 pm</u>			<u>Redirect</u>
<u>1024</u>		<u>objection</u>	<u>x</u>		<u>NFLPA Financial Statements</u>
		<u>12:16 pm</u>			<u>Recross</u>
		<u>12:19 pm</u>			<u>Witness Excused</u>
					<u>Plaintiffs addressed the jury to give them a summary of the rest of their case</u>
		<u>12:21 pm</u>			<u>Defendants addressed the jury to give them a summary of the rest of their case</u>
		<u>12:21 pm</u>			<u>Court admonished the jury</u>
		<u>12:23 pm</u>			<u>Recess</u>
					<u>(w/o jury) Court provided counsel a copy of the draft jury instructions. Parties shall file a response by 5pm on 11/3/08.</u>
		<u>12:27 pm</u>			<u>Recess until 11/4/08 at 7:30am</u>
					NOVEMBER 3, 2008 c/r Kathy Sullivan
		<u>7:30 am</u>			<u>(w/o jury)</u>
		<u>7:45 am</u>			<u>Recess</u>
		<u>7:52 am</u>			<u>Reconvene</u>
					<u>Plaintiffs' witness Philip Rowley sworn-in</u>
<u>1218</u>			<u>x</u>	<u>x</u>	<u>Royalty Payments Detail</u>
<u>1217</u>			<u>x</u>	<u>x</u>	<u>Total Royalty Payments by Year by License</u>
		<u>8:26 am</u>			<u>Cross Examination</u>

	<u>1323</u> <u>-1</u>		<u>x</u>	<u>x</u>	<u>Exhibit 1 to Supplemental Expert Report of Philip Rowley</u>
	<u>99</u>		<u>x</u>	<u>10/28</u>	<u>Letter from R. Goodell to E Upshaw</u>
	<u>1323</u> <u>-17</u>		<u>x</u>	<u>x</u>	<u>Exhibit 1 to Supplemental Expert Report</u>
		<u>9:20 am</u>			<u>Recess</u>
					<u>(w/o jury) Court asked counsel to prepare a stipulated list of the admitted exhibits for the jury. Defendants raised an issue on a portion of Gene Upshaws deposition of that can come into</u>
		<u>9:23 am</u>			<u>Recess</u>
		<u>9:52 am</u>			<u>Reconvene...jury present</u>
					<u>Continued Cross</u>
	<u>2057</u>		<u>x</u>	<u>x</u>	<u>Various Dates - Federal Rule of Evidence</u>
	<u>1307</u>		<u>x</u>	<u>10/27</u>	<u>Equal Share Licensing Royalty</u>
	<u>2056</u>		<u>x</u>	<u>10/28</u>	<u>Federal Rule of Evidence 1006 Compilation</u>
	<u>1217</u>		<u>x</u>	<u>x</u>	<u>Total Royalty Payments</u>
	<u>1218</u>		<u>x</u>	<u>x</u>	<u>Royalty Payments Detail</u>
	<u>1323</u> <u>-1</u>		<u>x</u>	<u>x</u>	<u>Exhibit 1 to Supplemental Expert Report of Philip Rowley</u>
		<u>10:42 am</u>			<u>Redirect</u>
<u>110</u>			<u>x</u>	<u>10/22</u>	<u>NFL Players Assoc Retired Player Group</u>
<u>1221</u>			<u>x</u>	<u>x</u>	<u>License Agreements - Subset</u>
<u>1217</u>			<u>x</u>	<u>x</u>	<u>Total Royalty Payments</u>
		<u>11:03 am</u>			<u>Recross</u>
<u>104</u>			<u>x</u>	<u>10/30</u>	<u>Gross Licensing Revenues</u>
<u>95</u>			<u>x</u>	<u>10/27</u>	<u>Agreement between NFL Players Assoc and NFL Players Inc</u>
		<u>11:13 am</u>			<u>Witness Excused</u>
					<u>Plaintiffs read stipulated facts to the jury: 1) Mr. Adderley is a retired football player; 2) NFL Players Assoc is a non profit. Headquarters in DC; 3) NFL Players Inc is a Virginia Corp; 4) Mr. Adderley is a named representative of a class of retired players; 5) GLA class consists of 2062 members (ex 1164 is compilation of GLAs); and 6) EA manufactures and sells EA Madden Football game.</u>
		<u>11:15 am</u>			<u>Plaintiffs REST, subject to exhibit 1164 and testimony of Patricia Allen</u>
		<u>11:17 am</u>			<u>Recess</u>

				(w/o jury) Defendants' Rule 50 Motion is deemed submitted.
		<u>11:20 m</u>		Recess
		<u>11:40 am</u>		Reconvene...jury present
				Defendants' witness Dan Goich sworn-in
	<u>2349</u>		<u>x</u> <u>x</u>	NFL Players Assoc Retired Player Group
		<u>12:07 pm</u>		Cross Examination
<u>2349</u>			<u>x</u> <u>x</u>	NFL Players Assoc Retired Player Group
		<u>12:15 pm</u>		Redirect
		<u>12:19 pm</u>		Recross
		<u>12:20 pm</u>		Witness Excused
				Defendants' witness Trace Armstrong sworn-in
	<u>132</u>		<u>x</u> <u>10/22</u>	NLF Players Association Constitution
	<u>2245</u>		<u>x</u> <u>x</u>	NFLPA Financial Statement
		<u>12:53 pm</u>		Recess until 11/4/08
				(w/o jury) Plaintiffs' motion to go into issue of the money being paid by the union is Denied.
		<u>12:58 pm</u>		Recess until 11/4/08 at 7:30am
				NOVEMBER 4, 2008 c/r Kathy Sullivan
		<u>7:30 am</u>		(w/o jury) Court and counsel addressed several issues
		<u>7:57 am</u>		Reconvene...jury present
				Continued Direct of Trace Armstrong
	<u>1301</u>		<u>x</u> <u>10/28</u>	Screen Shots of "scrambled" Bruce Laird from Madden Game
		<u>8:15 am</u>		Cross Examination
<u>1164</u> <u>-3</u>			<u>x</u> <u>x</u>	Retired Player Group Licensing Authorization Form
		<u>8:35 am</u>		Redirect
		<u>8:39 am</u>		Recross
		<u>8:39 am</u>		Witness Excused
				Plaintiffs' witness Patricia Allen sworn-in
<u>1049</u>			<u>x</u> <u>x</u>	Email from P Allen to C. Walker and P. Adolph
<u>1296</u>			<u>x</u> <u>x</u>	Annual Review of Players, Inc
		<u>9:09 am</u>		Recess

		<u>9:33 am</u>			<u>Reconvene...jury present</u>
					<u>Continued Direct</u>
<u>1298</u>			<u>x</u>	<u>x</u>	<u>Annual Review of Players, Inc</u>
<u>1299</u>			<u>x</u>	<u>x</u>	<u>Annual Review of Players, Inc</u>
		<u>9:36 am</u>			<u>Cross Examination</u>
	<u>2260</u>		<u>x</u>	<u>x</u>	<u>Players Inc Brochure</u>
	<u>2263</u>		<u>x</u>	<u>x</u>	<u>Hard-Hitting Marketing Brochure</u>
	<u>2292</u> <u>2306</u>		<u>x</u>	<u>x</u>	<u>Players Inc Monthly Reports</u>
		<u>10:01 am</u>			<u>Redirect</u>
<u>2260</u>			<u>x</u>	<u>x</u>	<u>Players Inc Brochure</u>
		<u>10:05 am</u>			<u>Re Redirect</u>
	<u>1164</u> <u>-50</u>		<u>x</u>	<u>x</u>	<u>Retired Player Group Licensing Form</u>
	<u>1164</u> <u>-51</u>		<u>x</u>	<u>x</u>	<u>Retired Player Group Licensing Form</u>
	<u>1164</u>		<u>x</u>	<u>x</u>	
	<u>1164</u> <u>-4</u>		<u>x</u>	<u>x</u>	<u>Group of Players Licensing Forms</u>
		<u>10:08 am</u>			<i><u>Plaintiffs REST</u></i>
					<u>Defendants' witness Professor Roger Noll sworn-in</u>
	<u>E1</u>	<u>objection</u>	<u>x</u>		<u>demonstrative exhibit - summary</u>
	<u>2397</u>		<u>x</u>	<u>x</u>	<u>Distribution of Licensing Revenues Among Players</u>
	<u>2398</u>		<u>x</u>	<u>x</u>	<u>Distribution of Licensing Revenues Among Players</u>
	<u>E2</u>	<u>objection</u>	<u>x</u>		<u>demonstrative exhibit - summary</u>
	<u>2056</u>		<u>x</u>	<u>10/28</u>	<u>Federal Rule of Evidence 1006 Compilation</u>
		<u>11:02 am</u>			<u>Recess</u>
		<u>11:20 am</u>			<u>Reconvene...jury present</u>
					<u>Continued Direct</u>
	<u>2399</u>		<u>x</u>	<u>x</u>	<u>Percentage of Licensing Income Paid to Players</u>
	<u>3000</u>	<u>objection</u>	<u>x</u>		<u>Expert Report</u>
		<u>11:47 am</u>			<u>Cross Examination</u>
<u>2397</u>			<u>x</u>	<u>x</u>	<u>Distribution of Licensing Revenues Among Players</u>
		<u>12:50 pm</u>			<u>Redirect</u>
		<u>1:00 pm</u>			<u>Recess</u>

				(w/o jury) Court gave counsel the used time and a copy of draft jury instructions and verdict form. Ten page responses due tonight. Charging conference will be held on Thursday.
		<u>1:05 pm</u>		Recess until 11/5/08 at 7:30 am
				NOVEMBER 5, 2008 c/r Kathy Sullivan
		<u>7:30 am</u>		(w/o jury) Defendants filed a brief for a jury instruction on the issue of Breach of Duty. Plaintiffs shall file a response brief today. Defendants will rest, after reading depositions today. Court will allow plaintiffs to read portion of Pat Allen's deposition on rebuttal. Defendants object to plaintiffs designations of Mr. Frisk. Court will allow a portion to be read.
		<u>8:10 am</u>		Reconvene...jury present
				Continued Redirect of Prof Roger Noll
	<u>2399</u>		<u>x</u> <u>11/4</u>	
	<u>2397</u>		<u>x</u> <u>11/4</u>	
		<u>8:36 am</u>		Recross Examination
				Email chain
		<u>8:53 am</u>		Re Redirect Examination
		<u>9:03 am</u>		Re Recross Examination
		<u>9:03 am</u>		Re Re Redirect Examination
		<u>9:04 am</u>		Witness Excused
		<u>9:05 am</u>		Recess
		<u>9:20 am</u>		(w/o jury) Court and counsel discussed the counter designations. Plaintiffs are dropping Frisk and Reebok.
		<u>9:30 am</u>		Reconvene...jury present
				Defendants' witness Gene Upshaw by deposition taken on 2/13/08. Deposition read by Molly Donovan and Roy Taub.
	<u>91</u>		<u>x</u> <u>10/27</u>	Amendment to NFLPA
	<u>99</u>		<u>x</u> <u>10/28</u>	Letter from R. Goodell to E. Upshaw
		<u>9:55 am</u>		Defendants moved in exhibits 113, 1268-108, 2272
	<u>113</u>		<u>x</u> <u>x</u>	Form Letter from G. Upshaw re Payment
	<u>1268-108</u>		<u>x</u> <u>x</u>	EA Sports Madden 2007 - Screen Shot
	<u>2272</u>		<u>x</u> <u>x</u>	Madden 2007 Screenshot Player Information

		<u>10:01 am</u>			<i>Defendants REST</i>
					<u>Plaintiffs want an admonition to the jury re the Courts request for defendants to link scrimmage issue. Defendants want to address outside the presence of the jury.</u>
		<u>10:02 am</u>			<u>Recess</u>
					<u>(w/o jury) Court and counsel discussed plaintiffs request to give the jury an admonition. Exhibit #1327 is excluded.</u>
		<u>10:14 am</u>			<u>Recess</u>
		<u>10:24 am</u>			<u>(w/o jury) Defendants raised issue about Take 2. Court is going to instruct jury that counsel on both sides have put in facts that are not in evidence. Parties agree to deal with the exhibit request sent to the Courtroom Deputy from the press.</u>
		<u>10:35 am</u>			<u>Reconvene...jury present</u>
					<u>Plaintiffs' Rebuttal witness Howard J. Skall by deposition taken 2/14/08 by Ryan Hilbert. Read by Ryan Hilbert and Anthony Garza.</u>
		<u>10:40 am</u>			<u>Plaintiffs confirmed exhibit #1164-4 is in evidence</u>
<u>1164</u> <u>4</u>			<u>x</u>	<u>x</u>	<u>Compilation of Retired Player Group Licensing Forms</u>
		<u>10:41 am</u>			<u>No Sur-Rebuttal</u>
					<u>Court addressed the jury about the remaining schedule. Jury should return on Friday. Charging conference will be held tomorrow. Court admonished the jury.</u>
		<u>10:48 am</u>			<u>Recess until 11/7/08 at 7:30am</u>
		<u>11:22 am</u>			<u>(w/o jury) Counsel argued Defendants Rule 50 Motion</u>
		<u>12:45 pm</u>			<u>Recess until 11/6/08 at 7:30 am</u>
					NOVEMBER 6, 2008 <u>c/r Kathy Sullivan</u>
		<u>7:30 am</u>			<u>Charging Conference held (outside the presence of the jury) Court will provide counsel with a final version of the instructions and verdict form later today.</u>
		<u>11:15 am</u>			<u>Recess until 11/7/08 at 7:30am</u>
					NOVEMBER 7, 2008 <u>c/r Kathy Sullivan</u>

		<u>7:30 am</u>			<u>(w/o jury) Defendants object to the plaintiffs demonstrative boards because they cutoff some of the questions and witness answers. Court will add instruction to address the issue raised in plaintiffs letter re paragraph 46. Defendants clarified that exhibit #1268-108 (withdrawn) was misidentified, it should have been exhibit #1263-108. Plaintiffs stipulate to changing the exhibit. Plaintiffs request for 10 minutes more for closing argument is denied. Demonstrative boards can be placed where ever counsel want. Plaintiffs can use 'double-talk' in rebuttal. Exhibit #2370 is withdrawn. Court will decide later if Mr. Berthelson must stay for punitive case. Plaintiff identified former NFL player sitting in galley.</u>
<u>1263</u> <u>108</u>			<u>x</u>	<u>x</u>	<u>Screen Shot</u>
		<u>8:00 am</u>			<u>Recess</u>
		<u>8:15 am</u>			<u>Reconvene...jury present</u>
					<u>Court addressed the jury regarding the process for</u>
		<u>8:18 am</u>			<u>Plaintiffs' Closing Argument</u>
		<u>9:26 am</u>			<u>Recess</u>
					<u>(w/o jury) Court will give each side an additional 15 minutes for closing.</u>
		<u>9:30 am</u>			<u>Recess</u>
		<u>9:45 am</u>			<u>Reconvene...jury present</u>
					<u>Defendants' Closing Argument</u>
		<u>11:06 am</u>			<u>Recess</u>
		<u>11:25 am</u>			<u>Reconvene...jury present</u>
					<u>Plaintiffs' Rebuttal Closing Argument</u>
		<u>11:48 am</u>			<u>Jury Instructions Read to the Jury</u>
		<u>12:49 pm</u>			<u>Recess</u>
					<u>Trial exhibits vetted by plaintiff 's paralegal, Suzie and defendants' paralegal, Lauren before going to the jury. After the verdict is reached, exhibit #80 will be placed under seal and redacted version exhibit #80-1 will be substituted.</u>
					<u>Deliberations Began</u>
		<u>4:00 pm</u>			<u>Recess until 11/10/08</u>
					<u>NOVEMBER 10, 2008</u>
		<u>7:45 am</u>			<u>Deliberation Continued</u>

		<u>1:40 pm</u>			<u>Reconvene...jury present</u>
					<u>Verdict Read in favor of Plaintiff</u>
		<u>1:50 pm</u>			<u>Recess</u>
					<u>(w/o jury) Court and counsel discussed how to proceed with the punitive damages trial. Court will allow plaintiffs to use an exhibit re financial statement in the next phase.</u>
		<u>2:00 pm</u>			<u>Recess</u>
		<u>2:20 pm</u>			<u>(w/o jury) Court and counsel discussed the procedure</u>
		<u>2:27 pm</u>			<u>Reconvene...jury present</u>
		<u>2:30 pm</u>			<u>Witness Richard Berthelsen sworn-in</u>
<u>2242</u>			<u>x</u>	<u>x</u>	<u>Financial Report</u>
		<u>2:37 pm</u>			<u>Cross Examination</u>
		<u>2:45 pm</u>			<u>Redirect Examination</u>
		<u>2:55 pm</u>			<u>Recross Examination</u>
		<u>2:55 pm</u>			<u>Witness Excused</u>
					<u>Plaintiffs REST</u>
		<u>2:56 pm</u>			<u>Defendants REST</u>
					<u>Jury Instruction Read to the Jury</u>
		<u>3:01 pm</u>			<u>Plaintiffs' Closing Argument</u>
		<u>3:14 pm</u>			<u>Defendants' Closing Argument</u>
		<u>3:21 pm</u>			<u>Plaintiffs' Rebuttal Closing</u>
		<u>3:24 pm</u>			<u>Court read the jury instruction again</u>
		<u>3:25 pm</u>			<u>Recess</u>
					<u>Deliberation Again</u>
					<u>(w/o jury) Court request briefing on a procedural issue. Judgment will be entered.</u>
		<u>3:28 pm</u>			<u>Recess</u>
		<u>4:15 pm</u>			<u>Reconvene...jury present</u>
					<u>Verdict read on the Punitive Damages</u>
		<u>4:19 pm</u>			<u>Jury thanked and discharged.</u>
					<u>(w/o jury) Court and counsel discussed talking to the jury</u>
		<u>4:20 pm</u>			<u>ADJOURNED</u>