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*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

RICHARD DENT, an individual, JEREMY **)**

NEWBERY, an individual, ROY GREEN, **)**

an individual, J.D. HILL, an individual, **)**

KEITH VAN HORNE, an individual, RON **)**

STONE, an individual, RON PRITCHARD, **)**

an individual, and JAMES MCMAHON, **)**

an individual; **)**

**)**

on behalf of themselves and all others **)**

similarly situated; **)**

**)**

Plaintiffs, **)**

**)**

v. **) CASE NO.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**)**

NATIONAL FOOTBALL LEAGUE, a New **) COMPLAINT**

York unincorporated association; **) DEMAND FOR JURY TRIAL**

**) CLASS ACTION**

Defendant. **)**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)**

COMES NOW the eight named Plaintiffs and \_\_\_ retained Plaintiffs, by and through undersigned counsel, who bring this class-action Complaint against Defendant National Football League (“NFL” or the “League”) and allege as follows:

**INTRODUCTION**

1. In contravention of Federal criminal laws, the NFL has intentionally, recklessly and negligently developed a culture of drug misuse, substituting players’ health for profit.
2. By this lawsuit, Plaintiffs seek financial compensation for the long-term chronic injuries, financial losses, expenses, pain and suffering, mental anguish and other losses they have suffered as a result of that misconduct and medical monitoring for the problems they suffer from and future problems they will suffer.
3. In 1966, the NFL had 15 teams and the AFL had 9 teams. Both leagues played a 14-game schedule and four pre-season games. Only six teams played in the post-season. Green Bay beat Dallas in the NFL Championship game before going on to beat Kansas City, which had beaten the Buffalo Bills in the AFL Championship game, in the first Super Bowl. On the NFL side, Baltimore beat Philadelphia in the “Playoff Bowl” to finish third in the League.
4. By 2014, the League had expanded to 32 teams, each of which played a four game pre-season, 16 regular season games (with the League looking to expand to an 18-game season), and could face up to four post-season games if they played in the Wildcard game before advancing to the Super Bowl. In other words, including pre- and post-season, a team could play four more games in 2014 than it did in 1966.
5. Moreover, whereas in 1966, players had no involvement with their team for months at a time in the offseason (and many needed second jobs), as of 2014, players have a few weeks in January (if not in the playoffs) and February before they report back in early March.
6. In addition to more games and shorter off seasons, over the same period of time, players have gotten bigger and stronger. Mel Kiper, one of ESPN’s senior football analysts, noted that in 2011 offensive lineman were on average 24 percent heavier than those in 1979 and an average of 31 percent stronger than those in 1991. Indeed, in the 1960s the Colts’ Hall of Fame tackle Art Donovan was considered a giant at 263 pounds. In recent years, the League has seen the likes of Aaron Gibson at 440 pounds, Albert Haynesworth and Shaun Rogers at 350 pounds, and King Dunlap, who stands 6 foot 9 inches and weighs 330 pounds.
7. Over the same time period, the League’s total revenue has skyrocketed. Between 1990 and 2013 alone, the number jumped from $1.5 billion to over $9 billion and Roger Goodell, the League’s commissioner, has set a target of $25 billion by 2027.
8. In its thirst for revenue, the League has over the past few years increasingly scheduled more Thursday-night games than ever before, leaving players with less recovery time and thus a greater chance for a new injury or making an existing-injury worse.
9. More games, longer seasons, shorter recovery between games and bigger/stronger players translate to more frequent and debilitating injuries and that is problematic for the League, which needs players on the field on any given Sunday so the money can keep rolling in. Indeed, lead Plaintiff Jeremy Newberry spent an entire season with \_\_ in which he played every Sunday but never practiced because his injuries were too severe and had an offer from \_\_ to do the same before deciding to retire.
10. While one might think that injuries need not doom a player’s career, one need only look at former first pick Ki-Jana Carter, who tore knee ligaments in his first preseason game and never truly achieved his athletic (and thus earning) potential, to know otherwise.
11. Indeed, in a recent Washington Post Survey, nearly 9 out of 10 former players reported playing while hurt. Fifty-six percent said they did this “frequently.” An overwhelming number – 68 percent – said they did not feel like they had a choice as to whether to play hurt.
12. And they are right – the NFL gave them no choice. Rather than allowing players the opportunity to rest and heal, the NFL has illegally and unethically substituted pain medications for proper health care to keep the money rolling in. For example, named Plaintiff Keith Van Horne played an entire season on a broken leg, the first month of which he a required special medical boot to reduce the swelling before he could suit-up. He was not told about the broken leg for five years, during which time he was fed a constant diet of pills to deal with the pain.
13. Scientific surveys of former NFL players indicate that most were improperly given medications by the NFL.
14. Over the course of five decades, medications have changed. Amphetamines, which at one time were left out in bowls in locker rooms, are not used as frequently now. Toradol is a more recent drug of choice. But while the specific medications have changed, the NFL has plied the following types of medications to its players consistently since 1969:

* **Opioids**: narcotics whose analgesic properties operate by binding to opioid receptors found primarily in the central nervous system and gastrointestinal tract. Opioids act to block and dull pain. The side effects of opioids include sedation, respiratory depression, constipation and a sense of euphoria. Opioids are commonly known to be highly addictive and are indicated for short-term use by patients with no family or personal history of drug abuse and for those without significant respiratory issues.
* **Non-Steroidal Anti-Inflammatory Medications (“NSAIDs”)**: a class of medications that have analgesic and anti-inflammatory effects to mitigate pain, the most common of which are Aspirin, Ibuprofen and Naproxen. All NSAIDs have blood thinning properties and have been linked to long-term kidney damage and other issues. Physicians deem Toradol particularly dangerous and its use is therefore generally limited to short-term administrations in hospitals for surgical patients.
* **Local Anesthetics** **(such as Lidocaine)**: are generally indicated as a local anesthetic for minor surgery and are generally injected to numb the surrounding area. Lidocaine has been known to result in cardiac issues for certain patients and it is indicated for surgical use in patients without heart problems.

1. The foregoing medications were often administered without a prescription and with little regard for a player’s medical history or potentially-fatal interactions with other medications. Administering medications in such a manner constitutes a fundamental misuse of carefully-controlled prescription medications and a clear danger to the players.
2. The NFL directly and indirectly supplied players with and encouraged players to use opioids to manage pain between games in a manner it knew or should have known to constitute a misuse of the medications and in violation of Federal drug laws.
3. The NFL directly and indirectly administered Toradol on game days to injured players to mask their pain. Many players received Toradol over multiple games (if not every game) in a season for several seasons in a row. Toradol should not be used in this manner.
4. The NFL directly and indirectly supplied players with NSAIDs, and otherwise encouraged players to rely upon NSAIDs, to manage pain without regard to the players’ medical history, potentially fatal drug interactions or long-term health consequences of that reliance.
5. The NFL directly and indirectly supplied players with local anesthetic medications to mask pain and other symptoms stemming from musculoskeletal injury when the NFL knew that doing so constitutes a dangerous misuse of such medications.
6. The NFL sanctioned and/or encouraged the misuse of narcotic pain medications in combination with NSAIDs, anesthetics and other substances such as alcohol despite clear evidence of the potentially-fatal interactions of such combinations. NFL doctors travel with their teams and know that players are being provided with such medications along with alcohol that the NFL provides on plane trips back from games.
7. With a priority on profit, the NFL places a premium on return to play to the detriment of a player’s health. The time has come for that to stop.

**PARTIES**

**I. THE CLASS REPRESENTATIVES HAVE SUFFERED SERIOUS INJURIES.**

1. The named Plaintiffs played between 1969 and 2008. Despite playing for different teams and at different times, their stories are remarkably similar.
2. Plaintiff Richard Dent is a representative of the putative class as defined herein. As of the commencement of this action, he is a resident of Illinois. Mr. Dent played defensive end for the Chicago Bears from 1983 – 1993 and again in 1995; the San Francisco 49ers in 1994; the Indianapolis Colts in 1996; and the Philadelphia Eagles in 1997. He was a four-time Pro Bowl selection; five-time All-Pro selection; two-time Super Bowl champion, and was inducted into the Pro Football Hall of Fame in 2011.
3. While playing in the NFL, Mr. Dent received hundreds, if not thousands, of injections from doctors and pills from trainers, including but not limited to NSAIDs and Percodan. No one ever talked to him about the side effects of the medications he was being given or cocktailing (mixing medications). Over the course of his career, Mr. Dent became dependent on painkillers, a slow process that overtook him without him being cognizant of it happening. After his playing career ended, he was no longer able to obtain painkillers for free from the NFL and was forced to purchase over-the-counter painkillers to satisfy his “cravings.” Over the course of that time, he has spent an extensive amount of money on such medications.
4. In addition, Mr. Dent suffers from an enlarged heart and nerve damage, particularly in his feet. In 1990 while playing in Seattle, Mr. Dent suffered a broken big toe. He was told by team doctors and trainers at the time that he had done all the damage that could be done to that toe and that, while he therefore could have surgery, they could also supply him with painkillers to allow him to continue playing. Trusting that the doctors and trainers would have his best interests at heart, he chose to continue playing and for the following eight weeks, he received repeated injections of painkillers as well as pills to keep playing. Today, he has permanent nerve damage in that toe.

**GENERAL ALLEGATIONS APPLICABLE TO ALL COUNTS**

**V. THE NFL IS RESPONSIBLE FOR PLAINTIFFS’ INJURIES.**

**A. Medications in the NFL Are a “Jaw-Dropping” Experience to Rookies.**

1. The named Plaintiffs played at some of the most select football colleges and universities in the country – USC, BYU, Arizona State, and California – with elite medical staffs that handled whatever injuries might arise. As named Plaintiff Roy Green stated, he knew that everyone at college, from coaches to doctors to trainers, only had his best interests in mind.
2. But to a man, it was a “jaw-dropping” experience for the named Plaintiffs upon entering an NFL locker room for the first time and seeing the amount of medications provided by NFL doctors and trainers, the choice of medications available, and the manner in which they were distributed.
3. The “experience” starts at the NFL-sponsored Combine, a player’s first introduction to the NFL. Every year, the NFL invites top college prospects to attend the Combine to be evaluated not only in areas such as speed and strength, but also their health. At the Combine, the NFL administers a complete physical evaluation that includes chest x-rays, EKG testing, and a complete blood and urine work-up to identify any underlying internal medical issues. Upon information and belief, the NFL pays for these tests and their processing. The NFL then gives each player a pass or fail grade and provides a numerical health ranking for each tested player, which becomes their internal system baseline upon entering the League.
4. Thereafter, upon receiving their first injury, or “nick” as the players ironically call it, players are told to see the trainers for pills and doctors for injections to mask their pain. Over the course of a season, players see trainers on an almost daily basis while doctors are seen on a weekly basis.
5. Bonds are created between the trainers/doctors and players, who ultimately trust the medical staff not only because it is ingrained in our society that doctors put a patient’s concerns first but because the players and doctors/trainers become friends, as is inevitable when people spend a great deal of time with each other dealing and sharing similar experiences.
6. But the sad reality is that athletic trainers, many of whom are not certified, and team physicians primarily work on keeping the machine humming. The long-term health of the individual player is not their first concern; the financial health of the team is. The faster a trainer or doctor gets his players back on the field, the more likely the team will field its best players. It is this premium product consumed on Sundays that ultimately drives the NFL profit machine through television, marketing, merchandise and endorsements. Therefore, trainers and doctors are under pressure to mask a player’s pain with medications and designate a hasty rehabilitation schedule, even if it inevitably trades one injury for the next.

**B. “Unique Clinical Challenges of the NFL” Necessitate the Availability of Painkillers and Anti-Inflammatories.**

1. The current President of the NFL Physicians Society acknowledges that the NFL machine poses “unique clinical challenges.” Rather than deal with those challenges through bigger rosters, fewer games, or increased spacing between games, the NFL has illegally medicated its players as if they were chattel, thereby maximizing profits and reducing costs.
2. NFL doctors and trainers gave players medications without telling them what they were taking or the possible side effects and without proper recordkeeping. Moreover, they did so in excess, thereby allowing players to self-medicate.
3. These pills were obtained by football teams medications in bulk. While this practice can be legal if done right, the NFL has failed to demand proper accountability and compliance with Federal and state regulations governing the control and distribution of the stockpile of pills.
4. Indeed, one former trainer has described the 1980s and 1990s as “the wild west” in terms of the NFL monitoring the medications being provided to its players.
5. For example, named Plaintiff Keith Van Horne was prescribed Percodan by a physician with no affiliation to the NFL after surgery foot or ankle injury. Days later, the Chicago Bears’ Head Trainer Fred Cato called Van Horne into this office, lambasting him for obtaining the Percodan because it led the Drug Enforcement Agency to issue a letter to the Bears inquiring as to why Van Horne was obtaining Schedule II medications.
6. When Van Horne told Cato that a physician had prescribed the drug, Cato responded that was not the problem. The problem was that the Bears ordered painkillers in advance of every season under a player’s name and Van Horne had thus put Cato in a bad spot by obtaining the Percodan when there were already DEA records that hundreds of painkillers had been ordered in Van Horne’s name, even though Van Horne had no need for the medications the Bears had ordered at the time the order was placed.
7. Upon information and belief, the practice of mass ordering in a players’ name no longer occurs. Instead, medications are controlled by the NFL Security Office in New York, which has implemented tighter controls in the last decade according to one former trainer who for years was a member of the NFL’s Committee on Performance Enhancing and Prescription Medications. In addition, according to a 2013 Washington Post article titled “Pain and Pain Management in NFL Spawn a Culture of Prescription Drug Use and Abuse,” the NFL contracted with an independent vendor, SportPharm, to track and log the extensive amounts of medications dispensed to teams.

**C. Game-Day Medications Mask Pain, Piling Injury Upon Injury.**

1. While the named Plaintiffs played at different times, they all received painkillers or other medications on game days to mask their pain and allow them to play through injuries. While the medications changed over the years, the practice of providing players with such medications, allowing them to mask pain instead of allowing injuries to heal, has not.
2. Named Plaintiff Ron Pritchard received injections and pills on game days. For example, in a playoff game against the Raiders, he received an injection of a numbing agent in his foot. And while Pritchard played with the Oilers, amphetamines in the form of yellow and purple pills were available in jars in the locker room for any and all to take as they saw fit.
3. When named Plaintiffs Jim McMahon and Richard Dent began playing, amphetamines were available in jars in the locker room for any and all to take. Only after the deaths of Don Rodgers and Len Bias were the jars removed, though NFL doctors and trainers still gave players amphetamines whenever they wanted.
4. Named Plaintiff J.D. Hill received Codeine on game days.
5. Named Plaintiff Keith Van Horne received injections of numbing agents and he often was not told exactly what he was receiving. For example, during a playoff game against the New York Giants, he could not lift his arm. Doctors and trainers knew he could not lift his arm so they gave him two Percodan for the first half and two Percodan for the second half to allow him to play.
6. Named Plaintiff Jeremy Newberry received injections of Toradol, which is the current game day drug of choice, consistently throughout his career
7. In the Post Survey of ex-players, nearly 8 out of 10 prior Toradol users said they took the drug as a masking agent, intended to dull the pain they expected to feel during the games. A 2002 survey of NFL physicians found that 28 of 30 teams used Toradol injections on game days. Another study two years later found an average of 15 pregame injections per team.
8. In the case of NFL players, Toradol is particularly problematic because it deadens feeling, inhibiting an athlete’s ability to feel pain and sense injury. The problem with prophylactically using Toradol as a masking agent is that pain tells or even compels the player to stop. If a player cannot feel the pain, he exposes himself to further danger.
9. Further, many players are given a “cocktail” of multiple medications, typically using Toradol in combination with other NSAIDs over the course of the week. This heightens the potential for side effects.
10. These injections, regardless of whether they were Toradol or something else, were usually given as close to game time as possible. Newberry and Stone would be two of as many as 15 of the 49ers starters lining up, pants down, to receive a Toradol shot in their buttocks before every game.
11. And while Toradol is the current game day drug choice of the NFL, players are given other medications on game day too. Named Plaintiff Jeremy Newberry received hundreds of Toradol injections over the course of his career and for many games, would receive as many as five or six injections of other medications during the course of a game. He also would receive Vicodin before, during and after games to numb pain and often during a game would simply ask a trainer for medications, which would be provided without record as to who was receiving what.
12. And the named Plaintiffs experienced the same post-game “ritual” of trainers handing out medications, including pain killers and sleeping aids, to be washed down by beer. When teams were traveling by plane, the NFL trainers would have the medications in a briefcase and would walk down the aisle, handing out pills or playing them on players’ seats in contravention of Federal law while the players were provided with beer at the back of the plane. Doctors were aboard these flights, knew the players were drinking alcohol and being provided various medications, and said nothing to them about the risks associated with such actions.

**D. Weekday Medications – NSAIDs, Sleep Aids, and Opioids.**

1. While the named Plaintiffs played at different times, they describe a daily ritual of being provided pills and receiving injections on a daily basis to cope with the pain so they could be ready to play again the following Sunday. This included uppers during the day, which required them to take downers at night to sleep, as well as downers and beer at the pre-game dinners. Generally, players were not physical capable of playing again until three or four days after a game, a big problem during shortened weeks when, for example, a team would play on a Sunday and then again on a Thursday.
2. While named Plaintiff Ron Pritchard played, amphetamines, Valium and Quaaludes were available at all times. Pritchard describes a ritual on the nights before games where, either at dinner or during bed check, trainers would give players sleeping pills or downers. The next morning, they would be provided uppers for practice or the game.
3. Named Plaintiff Jim McMahon regularly received sleeping pills from trainers during the week and before games.
4. Named Plaintiff Richard Dent described a daily ritual of going to breakfast with the team, then receiving whatever medications necessary to get him on the field, taking them in time to be able to practice, and then taking downers at night to sleep.
5. While named Plaintiff Keith Van Horne played for the Bears, bowls of Supac (a high-dose mixture of caffeine and aspirin) sat out in the locker rooms. Many Bears players took Supac with their morning coffee as part of the day’s ritual.

**E. Violations of Federal Law Continue to This Day.**

1. Between January 2009 and April 2009, the head athletic trainer for the New Orleans Saints noticed that several Vicodin pills had disappeared from the team’s drug locker.
2. The disappearance was reported to the Saints’ Director of Security, Geoffrey Santini, a 31-year veteran Supervisory Special Agent with the Federal Bureau of Investigation.
3. Mr. Santini reported the incident to the General Manager of the Saints, Mikey Loomis, who authorized the installation of two security cameras to catch the individual unlawfully taking the controlled substances from the drug locker.
4. The video surveillance ultimately revealed Joe Vitt, an assistant coach, illegally entering the room, opening the drug locker, and removing several pills from a Vicodin bottle.
5. Mr. Santini insisted that the Saints report the theft to the appropriate authorities, but instead Loomis and the Saints engaged in a coordinated effort of concealment, record-altering, and improper distribution of painkillers in violation of Federal and state law.
6. Rather than being an accessory, Mr. Santini submitted his resignation and brought a constructive discharge suit against the Saints in Louisiana state court.
7. In that suit, he claimed that “both the individual events and pattern of events which he was directed to engage in and/or overlook . . . would have constituted state and federal felonies had he acquiesced or participated. In particular, the actions and/or inactions plaintiff was directed to engage in would have constituted violations” of state and Federal statutes.
8. Mr. Santini’s constructive discharge claim was resolved through arbitration.
9. Upon information and belief, Mr. Santini’s complaint resulted in the DEA opening an investigation now being reviewed by the United States Attorney’s Office for the District of Louisiana.
10. The Saints may not be the only team failing to properly account for its medications. On March 16, 2014, Colts’ owner Jim Irsay was arrested and found to possess several Schedule IV medications, including Xanax, Valium and Ambien, along with large amounts of cash.

**F. Doctors/Trainers Concealed Injuries and Put a Focus on “Return to Play.”**

1. DeMaurice Smith, Executive Director of the NFLPA, has questioned whether the players were ever told about the risks and benefits of the medications they were receiving from team doctors and trainers, and concluded that they generally have not. Smith stated “[y]ou don’t have to walk far to find virtually every former player saying their team doctor never advised them about side effects of the medications they were taking.”
2. As former Bronco Nate Jackson has said, “[t]here was no hesitation, no trepidation, no point at which I felt that taking Toradol was a risk. I trusted our team doctors. They wouldn’t suggest a drug if it was dangerous.”
3. But the manner in which the NFL provides Toradol to its players ***is*** dangerous.
4. Moreover, the named Plaintiffs rarely, if ever, received written prescriptions (or for that matter, anything in writing) for the medications they were receiving.
5. And again, regardless of the era, the named Plaintiffs all received the bulk of their pills not in bottles that came with directions as to use but rather in small manila envelopes that never had such directions and often were not even labeled. Instead, the player would receive the envelope and be told to take it.
6. NFL doctors and trainers would push to return players to the field, regardless of what they were going through. When Ron Pritchard was traded to the Raiders, that team’s head doctor told him his knees were so bad that he could not keep playing. Nonetheless, the doctor told the team that Pritchard could play as long as he could cope with the pain.
7. Those injuries stemmed in part from a serious injury he had suffered the previous season while with the Bengals that required major knee surgery. Six weeks after that surgery, he was back on the field playing against the Pittsburgh Steelers.
8. Named Plaintiff Ron Stone received a serious elbow injury while playing with the Dallas Cowboys. Rather than recommend surgery, NFL doctors shot him with painkillers. In addition, Mr. Stone tore his thumb while playing with the Giants. He was told that, if he were a baseball player he would have been out for the season but because he was a football player, it could wait until the off-season.
9. Stone also suffered from a MCL sprain to his knee while playing with the Raiders. Rather than sit out and rest, he was given shots in the affected area and pain pills, was re-taped, and was sent back out to play. He ultimately developed an MCL tear.
10. Named Plaintiff Jim McMahon discovered for the first time in 2011 or 2012 that he had suffered a broken neck at some point in his career. He believes it happened during a 1993 playoff game when, after a hit, his legs went numb. Rather than sit out, he received medications and was pushed back on the field. No one from the NFL ever told him of this injury. In addition, he learned only a few years ago that he had broken an ankle while playing; at the time, he was told it was a sprain.
11. While McMahon was with the Bears, he received injections for six straight weeks in the 1984 season to cope with pain in his throwing hand and ten straight weeks in the 1986 season for pain in his right shoulder. In both instances, only later did he learn that he should have sat that time out and healed rather than mask the pain and return to play too early.
12. Named Plaintiff Roy Green developed painful calcium build-ups on his Achilles tendons. Rather than treat the pain through rest or surgery, doctors and trainers gave him anti-inflammatories and he skipped practices to be able to play but ultimately the pain got so bad that he demanded to have surgery. The Cardinals’ General Manager at the time, Hall of Famer Larry Wilson, pushed back but ultimately told Green “it was his decision.”
13. Moreover, NSAIDs can cause kidney damage. Mr. Green, who received hundreds of NSAIDs from NFL doctors and trainers, had tests performed on him while he played in the NFL that showed he had high creatinine levels, indicative of a limitation on his kidney function. No one from the NFL ever told him of those findings. In November 2012, he had a kidney transplant.
14. Similarly, while any doctor who looked at named Plaintiff Jeremy Newberry’s records should have seen the decreasing kidney function from his blood levels, he was never told about that problem while with the League. Indeed, if not for one night after retiring that Newberry’s blood pressure was measured at 250 over 160, at which point he was hospitalized for days, Newberry might have died from his kidney problems.
15. Finally, while the League kept records of players’ blood and urine levels, it tested only for banned substances which, when present in American sports (regardless of whether the sport is football, baseball, or cycling), has led to loss of sponsorship money and extreme dissatisfaction among fans (further affecting the NFL’s bottom line). In short, the NFL has selectively kept medical records it needed to sustain the economic machine while failing to keep records necessary to players’ health.

**PRAYER FOR RELIEF**

1. WHEREFORE, the Plaintiffs pray for judgment as follows:

a. Declaratory relief pursuant to 28 U.S.C. § 2201 against the NFL;

b. Granting an injunction and/or other equitable relief against the NFL and in favor of Plaintiffs for the requested medical monitoring;

c. Awarding Plaintiffs compensatory damages against the NFL;

d. Awarding Plaintiffs punitive damages against the NFL;

e. Awarding Plaintiffs such other relief as may be appropriate; and

f. Granting Plaintiffs their prejudgment interest, costs and attorneys’ fees.

Dated: May 20, 2014 Respectfully Submitted,

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