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13 Attorneys for Claimant **COLIN KAEPERNICK**

14 **IN THE MATTER OF ARBITRATION OF**

15 COLIN KAEPERNICK,

16 CLAIMANT,

17 vs.

18 NATIONAL FOOTBALL LEAGUE, *et al.*,

19 RESPONDENTS.

No.:

**CLAIMANT COLIN  
KAEPERNICK'S DEMAND FOR  
ARBITRATION**

20 **TO THE NATIONAL FOOTBALL LEAGUE AND ALL 32 TEAMS**

21 **COMPRISING THE LEAGUE:**

22 **PLEASE TAKE NOTICE THAT CLAIMANT COLIN KAEPERNICK** hereby  
23 commences an Enforcement Proceeding pursuant to Articles 15 and 17 of the National  
24 Football League ("NFL") Collective Bargaining Agreement ("CBA"). CBA Article 17,  
25 Section 1 states:

26 No club, its employees or agents shall enter into any agreement, express or  
27 implied, with the NFL, or any other Club, its employees, or agents to restrict or  
28 limit individual Club decision making as follows:

(i) whether to negotiate or not to negotiate with any player; . . .

(iii) whether to offer or not to offer a Player Contract to any player; . . . or

1 (v) concerning the terms or conditions of employment offered to any player for  
2 inclusion, or included in, a Player Contract.

3 CBA Art. 17, § 1.

4 During the 2017 NFL season and continuing to the present, the NFL, by and through  
5 all NFL team owners, NFL employees, and team employees, have entered into and enforced,  
6 implied and/or express agreements to specifically deprive Claimant Colin Kaepernick from  
7 employment in the NFL, as well as from practicing with and/or trying out for NFL teams for  
8 which Mr. Kaepernick is eminently qualified. Respondents NFL and NFL Team Owners  
9 have colluded to deprive Mr. Kaepernick of employment rights in retaliation for Mr.  
10 Kaepernick's leadership and advocacy for equality and social justice and his bringing  
11 awareness to peculiar institutions still undermining racial equality in the United States.  
12 Further, Respondents have retaliated against Mr. Kaepernick in response to coercion and  
13 calculated coordination from the Executive Branch of the United States government. Colin  
14 Kaepernick demands the prompt selection of a System Arbitrator pursuant to Article 15 of  
15 the CBA, expedited discovery including depositions and document production pursuant to  
16 Article 15, and a prompt Article 17 enforcement proceeding.

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20 **PLEASE TAKE FURTHER NOTICE THAT** pursuant to the CBA and the Federal  
21 Rules of Evidence, you are required by law to preserve all documents, emails, text messages,  
22 memoranda, notes, and all other electronically stored information (ESI) which is reasonably  
23 calculated to lead to the discovery of admissible evidence in this action. Any deletion of or  
24 tampering with evidence shall be deemed willful spoliation and will subject you and your  
25 agents to the fullest extent of penalties permitted by law.  
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1                   **I.       FACTUAL BACKGROUND**

2                   1. After setting numerous athletic records at the University of Nevada, Reno, Mr.  
3 Kaepernick began his professional football career in 2011, when he was selected by the San  
4 Francisco 49ers during the 2011 NFL draft.

5                   2. Mr. Kaepernick quickly rose to the position of starting quarterback for the 49ers in  
6 2012.

7                   3. Mr. Kaepernick ultimately led his team to the National Football Conference  
8 (“NFC”) Championship and to its first Super Bowl in nearly two decades.

9                   4. Mr. Kaepernick continued to perform as a top tier quarterback while playing with  
10 the 49ers.

11                   5. During the 2016 season, following numerous instances of police brutality against  
12 minority individuals, Mr. Kaepernick opted not to stand during the national anthem in an  
13 effort to raise awareness of racial inequality and minority oppression in the United States  
14 through a silent and peaceful protest of a nation that was not living up to its ideals of  
15 freedom and equality guarantees to all citizens. In addition to his silent and peaceful  
16 expression of protest by kneeling, Mr. Kaepernick also pledged to donate \$1 million of his  
17 2016–2017 season salary to support organizations helping communities in need.

18                   6. To date, and specifically from the 2016 season through the present, there has been  
19 no NFL rule prohibiting players from kneeling during the national anthem. Mr. Kaepernick  
20 has a constitutionally protected First Amendment right to engage in a silent and peaceful  
21 protest.  
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1 7. Mr. Kaepernick’s actions gained nationwide attention. Numerous other members  
2 of the NFL also began kneeling or making comparable gestures in peaceful protest during  
3 performances of the national anthem at professional sporting events.

4 8. Mr. Kaepernick became a free agent on or around March 3, 2017. Based on his  
5 consistently exceptional career performance, his age, and all other objective metrics, Mr.  
6 Kaepernick was an ideal candidate—and, in fact, the best-qualified candidate—to fill the  
7 vacant starting quarterback positions on many NFL teams, or at the very least, the numerous  
8 vacant backup positions. Goodell himself has been quoted as stating that the NFL is about  
9 “meritocracy and opportunity.”  
10

11 9. However, during his free agency period, the purportedly “free market”—whose  
12 natural function should have resulted in a bidding war (or at least high-level interest) for a  
13 quarterback of Mr. Kaepernick’s caliber—instead functioned as a peculiar institution with  
14 suspicious design and objective.  
15

16 10. NFL teams exhibited unusual and bizarre behavior regarding Mr. Kaepernick’s  
17 prospective employment. Multiple NFL head coaches and general managers stated that they  
18 wanted to sign Mr. Kaepernick, only to mysteriously go silent with no explanation and no  
19 contract offer made to Mr. Kaepernick. Other NFL teams stated they had no interest in Mr.  
20 Kaepernick and refused to explain why. NFL teams who ran offensive systems favorable to  
21 Mr. Kaepernick’s style of play instead employed retired quarterbacks or quarterbacks who  
22 had not played in a regular season game in years, and signed them to significant contracts  
23 while prohibiting Mr. Kaepernick from even trying out or interviewing for those jobs.  
24

25 11. On or around September 22, 2017, during a campaign rally speech in Alabama,  
26  
27 President Donald Trump referred to NFL players that knelt during the national anthem, as  
28

1 sons of b\*\*\*\*es (implying that Mr. Kaepernick was a “son of a b\*\*\*\*”) and demanded that  
2 NFL teams fire these players. Since then, President Trump and Vice President Mike Pence  
3 have posted Tweets and engaged in various public relations stunts designed to retaliate  
4 against Mr. Kaepernick and other players that have joined in Kaepernick’s peaceful  
5 protest. Following Trump’s September 22, 2017 campaign rally, NFL owners and affiliates  
6 feigned concern for players by either kneeling alongside them or joining them in locking  
7 arms, and were even featured on the cover of Sports Illustrated Magazine doing the  
8 same. However, such conduct by NFL owners proved to be a public relations stunt, designed  
9 to appear empathetic to players; in reality, NFL owners threatened players with fines and  
10 suspension if they refused to stand for the national anthem in the following weeks.

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13 12. On or around October 10, 2017, NFL Commissioner Goodell announced a  
14 proposed NFL rule change requiring players to stand during the national anthem, thereby  
15 conceding there was no such prior rule in place.

16  
17 13. The owners of Respondent NFL Teams have been quoted describing their  
18 communications with President Trump, who has been an organizing force in the collusion  
19 among team owners in their conduct towards Mr. Kaepernick and other NFL  
20 players. Owners have described the Trump Administration as causing paradigm shifts in  
21 their views toward NFL players.

22  
23 14. The mere suspicion of collusion against Mr. Kaepernick has risen to the level of  
24 concrete and actual collusion. It is no longer a statistical anomaly but instead a statistical  
25 impossibility that Mr. Kaepernick has not been employed or permitted to try out for any NFL  
26 team since the initiation of his free agency period. NFL General Managers and team leaders  
27 have referred to directives from NFL owners to not let Mr. Kaepernick so much as practice  
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1 with a team. In a league that is seventy percent (70%) African American, with not a single  
2 African American owner, the NFL and its owners have colluded to deprive Mr. Kaepernick  
3 of employment for the purpose of making him an example to other players of the  
4 repercussions of challenging the NFL power paradigm, even by peaceful protest. It is with a  
5 heavy heart that Mr. Kaepernick submits this Demand for Arbitration, as he has been  
6 saddened to confirm the baleful machinations that underlie the professional administration of  
7 America's pastime.  
8

9  
10 **II. VIOLATION OF COLLECTIVE BARGAINING AGREEMENT—  
ANTI-COLLUSION**

11 15. Claimant Colin Kaepernick incorporates the above-referenced allegations as  
12 though set forth fully herein.  
13

14 16. Respondent NFL and all 32 constituent Respondent NFL Teams are in violation  
15 of the CBA's anti-collusion provisions, as set forth in Article 17.  
16

17 17. Article 17 states:

18 No Club, its employees or agents shall enter into any agreement, express or  
19 implied, with the NFL or any other Club, its employees or agents to restrict or  
20 limit individual Club decision-making as follows:

21 (i) whether to negotiate or not to negotiate with any player; . . .

22 (iii) whether to offer or not to offer a Player Contract to any player; . . . or

23 (v) concerning the terms or conditions of employment offered to any player for  
24 inclusion, or included, in a Player Contract.

25 CBA Art. 17, § 1.

26 18. Respondents have engaged in express or implied collusion by prohibiting Mr.  
27 Kaepernick from practicing with any team, prohibiting Mr. Kaepernick from trying out with  
28 any team, and prohibiting Mr. Kaepernick from being employed by any team despite his

1 qualifications. Respondents have undertaken said collusive conduct in retaliation for Mr.  
2 Kaepernick's invocation of his rights under the First Amendment and his leadership in  
3 bringing attention to racial inequality and social injustice. Said conduct has been manifest in  
4 NFL team owner communications with each other, with the Executive Branch of the United  
5 States government, on social media, and through efforts announced by NFL Commissioner  
6 Goodell on October 10, 2017 to *nunc pro tunc* enact rules and regulations, not previously on  
7 the books, to prohibit and preclude Mr. Kaepernick and other players from kneeling.  
8

9 19. Claimant Colin Kaepernick requests all relief permitted by Article 17 of the CBA.  
10

11 20. Based on the public statements made by NFL Owners and NFL Commissioner  
12 Goodell regarding the foregoing matters, Claimant Colin Kaepernick respectfully requests  
13 that the NFL and its team owners waive such confidentiality requirements as may exist under  
14 Article 15, Section 10 and permit all proceedings to be presumptively open to the public.  
15

16 DATED: October 15, 2017

GERAGOS & GERAGOS, APC

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19 By: /s/ Mark J. Geragos  
20 MARK J. GERAGOS  
21 BEN J. MEISELAS  
22 TINA GLANDIAN  
23 Attorneys for Claimant  
24 COLIN KAEPERNICK  
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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 644 South Figueroa Street Los Angeles, California 90017-3411.

On October 15, 2017, I served the foregoing document described as:  
**CLAIMANT COLIN KAEPERNICK’S DEMAND FOR ARBITRATION** on the interested parties listed below:

**SEE ATTACHED SERVICE LIST**

**METHOD OF SERVICE**

**VIA US MAIL** - Placing the envelope for collection and mailing on the date and at our business address following our ordinary business practices. I am readily familiar with this business’s practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

**VIA FACSIMILE TRANSMISSION** – I caused the above described document to be transmitted via electronic facsimile to only those number(s) provided above on October 12, 2017.

**VIA PERSONAL SERVICE**) - I caused such envelope to be delivered by hand to the offices of the above addressee(s) on October 12, 2017.

**VIA EMAIL** - I caused the above-described documented to be transmitted via email to only the email(s) provided above on October 12, 2017.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 15, 2017, at Los Angeles, California 90017.

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GABY PRECIADO



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**SERVICE LIST**

1. The National Football League Management Council  
345 Park Avenue New York, NY 10154  
Attention: Executive Vice President Labor & League Counsel
  
2. National Football League Players Association  
63 Gene Upshaw Place 1133 20th Street, NW  
Washington, D.C. 20036  
Attention: General Counsel
  
3. Baltimore Ravens  
1 Winning Drive  
Owings Mills, Maryland 21117  
Attention: President
  
4. Buffalo Bills  
One Bills Drive Orchard Park  
New York 14127-2296  
Attention: President
  
5. Cincinnati Bengals  
One Paul Brown Stadium  
Cincinnati, Ohio 45202-3492  
Attention: President
  
6. Cleveland Browns  
76 Lou Groza Blvd.  
Berea, Ohio 44017  
Attention: President
  
7. Denver Broncos  
13655 Broncos Parkway  
Englewood, Colorado 80112  
Attention: President
  
8. Houston Texans  
Two NRG Park  
Houston, Texas 77054  
Attention: President
  
9. Indianapolis Colts  
P.O. Box 535000  
Indianapolis, Indiana 46253

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Attention: President

10. Jacksonville Jaguars  
One EverBank Field Drive  
Jacksonville, Florida 32202  
Attention: President

11. Kansas City Chiefs  
The University of Kansas Health System Training Complex  
One Arrowhead Drive  
Kansas City, Missouri 64129  
Attention: President

12. Los Angeles Chargers  
3333 Susan Street  
Costa Mesa, California 92626  
Attention: President

13. Miami Dolphins  
7500 S.W. 30th Street  
Davie, Florida 33314  
Attention: President

14. New England Patriots  
Gillette Stadium  
One Patriot Place  
Foxborough, Massachusetts 02035  
Attention: President

15. New York Jets  
1 Jets Drive  
Florham Park, New Jersey 07932  
Attention: President

16. Oakland Raiders  
1220 Harbor Bay Parkway  
Alameda, California 94502  
Attention: President

17. Pittsburgh Steelers  
3400 South Water Street  
Pittsburgh, Pennsylvania 15203  
Attention: President

18. Tennessee Titans

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460 Great Circle Road  
Nashville, Tennessee 37228  
Attention: President

19. Arizona Cardinals  
8701 S. Hardy Drive  
Tempe, Arizona 85284  
Attention: President

20. Atlanta Falcons  
4400 Falcon Parkway  
Flowery Branch, Georgia 30542  
Attention: President

21. Carolina Panthers  
800 South Mint Street  
Charlotte, North Carolina 28202-1502  
Attention: President

22. Chicago Bears  
Halas Hall at Conway Park  
1920 Football Drive  
Lake Forest, Illinois 60045  
Attention: President

23. Dallas Cowboys  
The Star in Frisco, 1 Cowboys Way  
Frisco, Texas 75034  
Attention: President

24. Detroit Lions  
222 Republic Drive  
Allen Park, Michigan 48101  
Attention: President

25. Green Bay Packers  
Lambeau Field Atrium  
1265 Lombardi Avenue  
Green Bay, Wisconsin 54304  
Attention: President

26. Los Angeles Rams  
29899 Agoura Road  
Agoura Hills, CA 91301  
Attention: President

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- 27. Minnesota Vikings  
9520 Viking Drive  
Eden Prairie, Minnesota 55344  
Attention: President
- 28. New Orleans Saints  
5800 Airline Drive  
Metairie, Louisiana 70003  
Attention: President
- 29. New York Giants  
Quest Diagnostics Training Center  
1925 Giants Drive  
East Rutherford, New Jersey 07073  
Attention: President
- 30. Philadelphia Eagles  
NovaCare Complex  
One NovaCare Way  
Philadelphia, Pennsylvania 19145  
Attention: President
- 31. San Francisco 49ers  
4949 Marie P. DeBartolo Way  
Santa Clara, California 95054  
Attention: President
- 32. Seattle Seahawks  
Virginia Mason Athletic Center  
12 Seahawks Way  
Renton, Washington 98056  
Attention: President
- 33. Tampa Bay Buccaneers  
One Buccaneer Place  
Tampa, Florida 33607  
Attention: President
- 34. Washington Redskins  
Inova Sports Performance Center at Redskins Park  
21300 Redskin Park Drive  
Ashburn, Virginia 20147  
Attention: President